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نفاذ القرار الاداري بأثر رجعي

Coming into force of the administrative decision with aretroactive effect

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فيصل صالح سعيد الزعبي

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عبد الرؤوف الكساسبة

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2015/2014

نفاذ القرار الاداري بأثر رجعي

forec of the administrative decision with azetroactive effect

إعداد

فيصل صالح سعيد الزعبي

قدمت هذه الخطة استكمالا لمتطلبات الحصول على درجة الماجستير في القانون العام، جامعة اليرموك.

أعضاء لجنة المناقشة

الدكتور عبد الرؤوف الكساسبة...مشرفاً ورئيساً

أستاذ مساعد في جامعة اليرموك

الدكتور سليمان بطارسه...عضواً

أستاذ الدكتور في جامعة اليرموك

الدكتور وليد القاضي...عضواً

أستاذ مساعد في الجامعة الأردنية

تاريخ المناقشة: 13 / 1 /2015

ب

الإهداء

إلى الأم الحنون التي ضحت وأفنت حياتها من أجلنا ،

حبا ورحمة ورضواناً وحناناً ، وبراً ....

إلى من علمني معنى الحياة مثال الرجولة والقدوة

أبي العزيز ....

إلى إخواني وأخواتي تقديرا وعرفانا ومحبة لهم ......

إلى أساتذتي الكرام الذين أكن لهم كل فضل واحترام.

إلى رفقاء دربي وأمل حياتي.. .أقاربي وأصدقائي بارك الله فيهم إلى كل هؤلاء أهدي

هذا الجهد العلمي، عسى الله أن يجعله خالصًا لوجهه الكريم، وأن يعم به

النفع والفائدة إنه ولي ذلك والقادر عليه،

وصلى الله على سيدنا محمد وعلى آله وصحبه وسلم أجمعين.

ΚΘƒG‖ε

شكر وتقدير

ŬĂ þùƶƙ Ů Ŏƙ!ƒ ƝǆžƶǇ Ĭ῁Ƶ ǇƧǂTƊĂ ǇþǆžơƊ Üƾő5ĂƙĂ ǈĂƵ ýǂ Ǉþőƕ ĭƦ!ƒ ÜǈőǆžǃƶƷ!ƒ ƔƧ Ÿ þǆžơ!ƒ

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ǃǋþǋǃTùő Ŏùƙ!ƒ ǂ῁ơƧǆž!ƒ Ĭ!ƍ Ƙ῁ƮĂ Ĭƙơ ǂ!ǃƪƧ!ƒ ǇƦǋ ƨƒƧƕƍ Ŏ5 ƒĂǆžǌƪƊ ǈőƦ!ƒ ǅǌ ǈĂƧőĂǂ5

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فهرس المحتويات

ýĂŰƒ ýƮ5!ƒ

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الملخص

Abstract

Coming into force of the administrative decision with aretroactive effect

Prepared by: faesl Saleh Alzoubi

Supervisor: Dr.Abdel Ra'ouf kasasbeh

This study investigated the subject the force of the administrative decision with a retroactive effect in the comparative administrative law.

The force of administrative decision is considered a problem for administration in one hand, and for individuals on the other hand. So, we this study attempted to face this problem bg trying to investigate tmj subject. this study consisted of an introduction and two chapters and conclusion. In the introduction the researcher talked about the administrative decision force , it conditions, and the method of executing it. the first chapter treated its legal basis, the second chapter dealt with the force of the retroactive administrative decision and it's effect on the two paities, namelg administration and individuals.

the study revealed what the force , the execution, and the difference between them. Then it focused on that the administrative decisions must be applied directly, and not with a retroactive effect because it is related with the stability of legal centers, and with the importance of respecting the rules of specialization. But the retroactive effect may be applied in exceptional cases.

This study will discuss that in detail.

Key word: force, execution, no retroactive, retroactive effect, gained rights.

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ǉǴƨŁǀǅǁƐ ƷǋŧƟǁƐ ĂŧƳ ǇþƙǋǏƴƜþ þƙǅǴ ăþƐǭŰƐ þƐþŧǁƐ ǄǇǐþƨ :ǏǆƑƙǁƐ üTƻǁƐ

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ŁǉƪƙŧǆǃƒŧĂǀơ!ƒYƒĂǈƉ :ŎǈǴƛ!ƒ ƔǀƱǆ!ƒ

ŁǉƪƙŧǆǃƒŧĂǀơǀ!ŁŏǴǆơŎǋŁŏƶƞƧ!ƒǅþƵǀþƵǴǷ : Ł!ǴƛƒƔǀƱǆ!ƒ

ǏƧƒþŰƒƧƒƧǀǀ!ŎƶƞƧ!ƒƧƛŰƒŁŏǋǴǆ :ŎǈǴƛ!ƒ Łơǉǆ!ƒ

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ŎƶƞƧ ƧƛǆǉǏƧƒþŰƒƧƒƧǀ!ƒǇǴŏƧƪǏǀƵŁǉƙƧƙǆ!ƒƧǴƛŰƒ : Ł!ǴƛƒƔǀƱǆ!ƒ

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ƒŖǋ ŖǴ5ǈ Ƨǈƶǒ ǴǆǂÜǇƧƒþŰƒ ǴǋǈǐƱƙ Ǒƙ!ƒ ƘǴǈƞƒĂ!ƒ ƭǒǇơƙĂ ǇĂƞƧǆ!ƒ ƻƒþǋŰƒ ƭǒǇơƙ! ǆþƤƙƪǒ

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ýƬ5!ƒ ƒŖǋ Ǒ5 ƗơǴ!ƒ ǆĂǀǒƪĂ Üýǒþƶƙ ĂǷ ǇǴƬǈ ǇǆƗǇƪƙǂǆ!ƒ ƭĂǀơ!ƒĂ ƗǒǈĂǈǴǀ!ƒ ƨǂƒƧǆ!Ǵ ƩǴƪǆ

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.[2]ĭƧƒþŰƒ ƧƒƧ!ƒ ŖǴ5ǈ ƳĂǇĂǆ Ǒ5 Ƨǒǈƶƙ!ƒ ƒŖǋ

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(1) Ǒ5 ǴƞǒǷĂ .71 ƒ Ü1981 Ɨǈƪ ÜǇƒƧĂƙþ Ɨ!Ǵƪ ÜƗǒƧƒþŰƒ ƘƒƧƒƧ!ƒ ŖǴ5ǈ Üĭ ƧǴǈƪ!ƒ ýǴƶ!ƒ þǇƵ þǆǒơǆ .80 ƒ ÜùǸ1394 ÜƗǒþĂƶƪ!ƒ ÜƗǆǴƶ!ƒ ǇƧƒþŰƒ þǋƶǆ Üĭ ƧƒþŰƒ ƧƒƧ!ƒ Ǒ5 ƩĂƧþ ÜǇƪơ ƟǴƙ5!ƒ þǇƵ ÜĬǈƶǆ!ƒ

(2) ǆƧǂǷ ƻƧǴƵ ǴþƵǴǀǆ ÜǇþƵǴǀǆ Üĭ ƧƒþŰƒ ƧƒƧ!ƒ ÜƱ.þ Ü1992 Ü85 ƒ Ɨǒơ ǷǴƬǷ ǴƞǒǷ ǇǷ Ƨǒǈƶƙ ǇĂ!ƒ ƗǒŘǒ5ǈƙ!ƒ .ĂǇƧĂǋ þǒǆƶ!ƒ ǸǆþƤƙƪƒ

[illegible] .[1]

[illegible] .[2]

[illegible] .[3]

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(1) [illegible] 2007 [illegible] 173.

(2) [illegible] 2009 [illegible] 7.

(3) [illegible] 2005 [illegible] 36.

[illegible]

(1) [illegible] 1987 [illegible] 311.

(2) [illegible] 411.

(3) [illegible] 1987 [illegible] 43.

[illegible] .[1][illegible]

[illegible] .[illegible] [2] [illegible]

[illegible] .[illegible]

[illegible] .[3] [illegible] ..." [illegible] ."[4]

[illegible] (2007/505)[5].

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[1] [illegible] 1987، ص 542.
[2] [illegible] 1900، ص 633.
[3] [illegible] 511، [illegible]:
- [illegible] 11474 [illegible] 48 [illegible] 2008/1/27.
- [illegible] (1762)، 1957/12/14.
- [illegible] (7/1586) [illegible] 1965/5/22.
[4] [illegible] (86/29) [illegible] (10 [illegible]) [illegible] 1987، ص 1544.
[5] [illegible] 2013/198، [illegible] 2000/298 [illegible] 2010/173.

Ǻƶǩdžǩdž Ƨþ Ţŏ Ǉǅ ĭ ƧƒþŰƒ ƧƒƧ!Ǥ ýŢŰƒ :ǋŏ5 ǤǤη Ɫŏơ ǁ!Ʀ þŏƌŏ Ǥdž ƧƤƈ ƧƒƧp Ŏ5 ǤǤηĂ

.[1]ⱢƱǈƪ!ƒ ƵƒƧơǈǤ ƔĂŢdž ƧŏƩĂ ⱢŏŢƤŢ!ƒ ⱢƵƒĂ!ƒ ǇƵ ǺþŏƶƗ Ɫdžŭƪ!ƒĂ ⱢơŢ!ƒ ⱢǈŏƧǀ

ÜⱢŢǨƤdž ⱢŏƧƒþƍ Ɫnjη ǇƵ ǺƧþǤŢ ǇĂⱡŏ ǇǅþŮ Ǻơŏơ Ţ ĭ ƧƒþŰƒ ƧƒƧ!ƒ ǇĂⱡŏ Ŏⱡ! ǋǈdž ăƧǈ Ă

.YĂư Ădž!ƒ Ɫŏơ ǇƌdžǤdžŏǈƪĂ Üýⱡ T!ƒ Ɫŏơ Ǉdž Ǻơŏơ Ţ ǇĂⱡŏ ǇǅĂ

:ăþƐƍŰƐ þƐþƾǁƐ ƕĭyШþ !ƍY :ƒĭdžƑǩ

ƏþǤdž!ƒ þơǅ Ănj ĭ ƧƒþŰƒ ƧƒƧ!ƒ ⱢŏƶηƧ ǅþƵĂ ÜǋǨŏƶηƧ ǅþƵ ĭ ƧƒþŰƒ ƧƒƧ!ƒ Ʀŏ5ǈǩ ƱĂƧT Ǉdž

ǇǆT ǋǈǆT ǤǊƧƧǀŏ ƒ ǈ Ĭ!ƍ ⱢηǤơ!ƒ ǇĂþ ĭ ƧƒþŰƒ ǇĂǈǤǀ!ƒ ýǤηdž Ŏ5 ƾƕƱǩ Ŏǩ!ƒ ⱢdžǤƶ!ƒ ⱢŏǈĂǈǤǀ!ƒ

.[2]ăƧƤŰƒ ǋŏƧƒþŰƒ ƏþǤdž!ƒ Ǉdž ǤǊƧŏƩĂ ÜⱢdžǤƶ!ƒ ƾ5ƒƧdž!ƒ Ƨŏƪ ǅǤƱǨǈƒ ǅþƕdž

ⱢŏǈĂǈǤǀ!ƒ yƑǤƥĂ!ƒĂ ýǤdžƵŰƒ ĬǈƵ ⱢŏƧƒþŰƒ ƘƒƧƒƧ!ƒ ƦǤ5ǈ ǅþƵ Ăǌ ÜⱢŏƶηƧ!ƒ ǅþƶƕ þĂŢǀdž!ƒĂ"

ýǤdžƵǅĂ yƑǤƥĂ Ǉdž Ɫþơŏ Ǥdž ĬǈƵ ǤǌǈǤŏƧƪ ƧŢơǈŏ ǤdžǈƍĂ ÜǤǊƧĂþŢ! þþơdž!ƒ ƍŏƧǤǩ!ƒ ýƕp Ƙdžǩ Ŏǩ!ƒ

ǀþƵǤǀ!ƒ ǈƦǊ ĭ ƧƪǩĂ ÜǈƧĂþŢ ƍŏƧǤǩ Ǉdž Ůƍ ĭ ƧƒþŰƒ ƧƒƧ!ƒ ƾƕƱŏ ŭ5 .[3]"ǤǊƧƒþŢƒ ƍŏƧǤǩ þƶƕ

ŎdžŏƱǈǩ!ƒ ƧƒƧ!ƒ Ʃdžŏ ǇǅƨĂηŏ Ů ǋǈƷ5 ǁ!Ʀⱡ Ă .[4]ŎdžŏƱǈǩ!ƒ ƧƒƧ!ƒ ĬǈƵĂ ĭþƧ5!ƒ ƧƒƧ!ƒ ĬǈƵ

ǈƦǊ ýƱǩ ýƕ ÜǋŏǈƵ ⱢǀǤƪ!ƒ ⱢŏdžŏƱǈǩ!ƒ þƵƒĂ!ƒ ýƱ Ŏ5 Ƙƕƪǩⱡƒ þp ǇĂⱡǩ Ŏǩ!ƒ ⱢŏŢƤT!ƒ ƨⱡƒƧdž!ƒ

Ĭǩdž þŏþη!ƒ ƧƒƧ!ƒ ƧĂþŢ þƶƕ Ĭǩơ ǤǊƧǤǈŮ ⱢƕǩƧdžĂ ǤǊþĂηĂƕ ⱢƱ5ǩơdž ⱢdžǤƶ!ƒ ⱢŏǈĂǈǤǀ!ƒ ƨⱡƒƧdž!ƒ

.[5]ǤǈǀŏƕƱǩ ƱĂƧT Ƙǈdžǩⱡƒ

ƒƦǈǈƕ ƦƤŰƒ ĬǈƵ ǇþƧŰƒ Ŏ5 Ăǅ ƧŢdž Ŏ5 Ăǅ ǤƪǈƧ5 Ŏ5 ǤƒĂƪ ĭ ƧƒþŰƒ ǤǤư!ƒ ƧǀǨƪƒ þƥĂ

ƧƒƧ!ƒ Ǉǆƕ Ʃǈηdž!ƒ ǋƕ Ĭ ưp Ǥdž Ü ǇǆT!ƒ ƒƦǈǈ Ŏ5 ŎƪǈƧ5!ƒ Ɫ!Ăþ!ƒ Ʃǈηdž ǅǤⱡơǅ ǇdžĂ Üǅþƕdž!ƒ

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[1] ǅùpƧ Ǥùŏǈ Ƶ ýþùƵ :Ĭùǈƶdž!ƒ ƘƒƦĂ ƾǤŏƪù!ƒ Ʃùƍǈ Ŏ5 ǋŏ!Ǥǩ!ƒ ƘƒƧƒƧ!ƒ ƧƱǈƒĂ Ü2013/198 ǅpƧ ǤǈƵ ýþƵ .ǅ2000/298 ǅpƧ ǤǈƵ ýþƵ ǅ2007/37 ǅpƧ ǤǈƵ ýþƵ .2010/173

[2] ǅþƵ ǤƱ5!ƒ ƟǈƪƠ ÜƩĂƧþ ǈ ƪĭ ƧƒþŰƒ ǇĂǈǤǀ!ƒ Ŏ5 ƧƒƧ!ƒ ÜⱢƶdžǤη!ƒ ƧƒƐŏ ÜƘĂƧŏ 1989 Ü ƒ 108.

[3] ǅþƵ ƟǈƪƠ ŎǈĂŏƪ ǅþƵ Ÿƒ Ü ǇĂǈǤǀ!ƒ ĭ ƧƒþŰƒ Ü yηƧdž ƾǤƪ Ü ƒ 459.

[4] ǅþƵ ƟǈƪƠ ÜƏþǤdž ǇĂǈǤǀ!ƒ ĭ ƧƒþŰƒ ÜŎǩŏĂⱡ!ƒ Ü1969 ƒ 408.

[5] yηƧdž ƾǤƪ!ƒ Ü ƒ 408.

[illegible] [1]

[illegible] [2]

[illegible]

[illegible] [3]

[illegible] [4] [illegible] [5] [illegible]

(1) [illegible] 1979 [illegible] 5 [illegible] 1978 [illegible] 3 [illegible] .212 [illegible]

(2) [illegible] 1987 [illegible] .650 [illegible] (904) 1948/3/10.

(3) [illegible] .655 [illegible] (7/1050) [illegible] 1965/11/21.

(4) [illegible] (61/114) [illegible] .492

(5) [illegible] (63/72) [illegible] .492

[illegible]

[illegible]

[illegible] [1]

[illegible]

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[1] [illegible] 1998 [illegible] 355 .

.(1)

.(2) (3) .(4)

.(5)

.(6)

(1) 1988 .122

(2) 1978 .573

(3) 1963 .327

(4) .542

(5) دار الفكر العربى للطباعة والنشر، 1957 .633

(6) 653 .542

[illegible]

[illegible] [1]

[illegible]

[illegible] [2]

[illegible]

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[1] [illegible] .542

[2] [illegible] .117

[illegible] [1] [illegible]

[2] [illegible]

[illegible]

[illegible]

[illegible] (12) [illegible]

[illegible]

[illegible] (50-20) [illegible]

[3] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[4] [illegible]

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(1) [illegible] الرياض: معهد الإدارة العامة، 1974 [illegible] 118.

(2) [illegible] 1998 [illegible] 355.

(3) [illegible] (1/ [illegible]) 1984 [illegible] (13) [illegible] (20) 1973 [illegible] 1996 [illegible] 135.

(4) [illegible] 636 . [illegible] 92.

[illegible][1] [illegible]

.[2][illegible]

[illegible]

[illegible] .[3]

[illegible] .[4] [illegible]

.[5][illegible]

(1) [illegible] ص 935.
(2) [illegible] مرجع سابق [illegible] ص 397.
(3) [illegible] ص 389.
(4) [illegible] ص 92.
(5) [illegible] ص 442.

[illegible]

:[1] [illegible]

-1 [illegible]

.[2][illegible]

-2 [illegible]

-3 [illegible]

:[illegible]

- [illegible]

- [illegible]

.[illegible]

[illegible]

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(1) [illegible] 2005 [illegible] 15.

(2) [illegible] 2005 [illegible] 296-297.

:[1]

.[2]

.[3]

:[4]

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[1] 81

[2] 298
260

[3] 414

[4] 2000/256 (2000/12/12) 319 12 2000/1/1
1999 (25) 23/
1/101

[illegible] .[1]

[illegible] .[2] 1999 [illegible] 12 [illegible]

[illegible] .[3]

[illegible]

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(1) [illegible] .299-298 [illegible]
(2) [illegible] 1999/223 [illegible] 1999/10/31 [illegible] 305 [illegible] 10 [illegible] .1999/1/1
(3) [illegible] 81 [illegible].

[illegible] 4/31 [illegible]

[illegible] .(1)

[illegible] .(2)

[illegible]

(1) [illegible] 1986/54 [illegible] 1986/9/30 [illegible].

(2) [illegible] 1980/92 [illegible] 1531 [illegible]
.1981/1/1

üNjŮε üƬƻǁε

hŭƥεƣŰε lεƥεƥʂǁε hŭƴƜƥ !ƣƳ cƣǴDŽ

Ü ĭƧƒƥŰƒ ǅǴưl!ƒĂ NJl5!ƒ Ŏ5 ƗŏzɳƧ!ƒ DžƥƵ DƥhdžLJƵ ƚŏƥơ!ƒ ýƬ5!ƒ ƒŖNj Ŏ5 ƚơǴh!ƒ ýĂǴLjkŏʅ

ƘƒƧƒƧl!ƒ ƗŏzɳƧ DžƥƵ Dƥhdž! ŎLjĂLjǴl!ƒ ƩǴʅŰƒ LJƵĂ ÜNJŏ5 ƥĂƬldž!ƒĂ NJkŏNjǴdž LJƵ ƚŏƥơ!Ǵh ǁ!ŖĂ

Dƥhdž!ƒ ƒŖNj Ĭ̈Ƶ ƥƧk ƥp Ŏk!ƒ ǅǴLjĂkʅŰƒ LJƵ ƧŏƤDĂ ÜLjƧǴhkƵƨ ƘƒƧƧhdžĂ NJkǴƸĂʅdž LJƵĂ ÜƗŏƧƒƥŰƒ

:Ŏ̈ŏ Ǵdžǂ ǁ!ŖĂ

üNjŮε ƘƟǴDŽǁε

hŭƥεƣŰε lεƥεƥʂǁε hŭƴƜƥ !ƣƳ hŭljƑDŽ

ljŖǴ5Lj ýzɳk ƥp lƧƒƥŰƒ LJD Ůƨ ÜLjƧĂƥƬ ƣŏƧǴk LJdž ǻŖ5ǴLj Ƨhkzŏ ĭƧƒƥŰƒ ƧƒƧl!ƒ LJD DžĂ̈zdž!ƒ LJdž

ƚơhLjʅ ǴLjLj5 Ɨ!ƌʅdž!ƒ ljŖNj Ơŏư Ăk!Ă Üĭ ƧƒƥŰƒ ƧƒƧl!ƒ ƗŏzɳƧ DžƥƵ lƥƵǴp Ĭ̈Ƶ ǼɳĂƧƤ ŎzɳƧ Ƨƛdh

.NJkƒƧƧhdž DžƛÜNJŏ!ƨ ƥLjkʅŏ ĭŖ!ƒ ŎLjĂLjǴl!ƒ NJʅǴʅDĂ ĭƧƒƥŰƒ ƧƒƧl!ƒ ƗŏzɳƧ DžƥƵ Dƥhdž ĬLjzdž Ŏ5 ǕĂD

üNjŮε ƒǂƱDŽǁε

hŭƥεƣŰε lεƥεƥʂǁε hŭƴƜƥ !ƣƳ cƣǴDŽǴ ƣNjƬʂDŽǁε

LJdž LJǂƧ ĂNjĂ ÜƗdžǴz!ƒ ƗŏLjĂLjǴl!ƒ ƏƥǴhdž!ƒ DžNjD ƥơD ƗŏƧƒƥŰƒ ƘƒƧƒƧl!ƒ ƗŏzɳƧ DžƥƵ Dƥhdž Ƨhkzŏ

ĭŖ!ƒĂ ÜŎʅLjƧ5!ƒ Ɨ!Ăƥ!ƒ Ʃ̈ɳdž Ĭ!ƨ ljƧƒƧpŰ ýư5!ƒ ƥĂzŏ ĭŖ!ƒĂ ÜƗŏLjĂLjǴl!ƒ ƗŏƵƧƬ!ƒ Dƥhdž LJǴǂƧD

ƗdžƨldžlƥƵǴp ƠhƬD LJD Ĭ!ƨ ÜƴŏƧƬk̈! ƗdžǴz!ƒ ƟĂƧ!ƒĂ ƗƵǴdžɳ!ƒ Ƨŏdžư LJdž Dƥhdž!ƒ ƒŖNj ƒ̈Ƥkʅƒ

ƒŖnj! Ɨ5!ǴƤdž!ƒ ǴnjkǴ5ƧƬk ǅǴƸ!ƨ Ɨ̈ƑǴƱ Ƙơk ǴnjljƵ ƜĂƧƤ!ƒ DžƥƵĂ ǴnjdžƒƧkơƒ lƧƒƥŰƒ Ĭ̈Ƶ Ɣɳkŏ

.Dƥhdž!ƒ[1]

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[1] ƥhƵ Ÿƒ ÜƗḧƱ ÜƏƥǴhdž LJĂLjǴl!ƒ ÜĭƧƒƥŰƒ Üǂɳzdžƒ ƥdžƬÜ ƥdžƬÜ ÜDž1996 ƒ 255.

Ph. Foillard

(1)

(2)

(3)

(4) Ph. Foillard. Droit afminiistratif,2002op.cit.p.207.

[illegible] [1]

[illegible] [2]

[illegible] [3]

[illegible] [4]

[illegible] 2001 [illegible] 11 [illegible]

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(1) [illegible] 2011 [illegible] .225

(2) [illegible] 2000 [illegible] .15

(3) [illegible] 1108 [illegible] 5 [illegible] 1979 [illegible] .109

(4) [illegible] 120 [illegible] 1948/3/10 [illegible] .650

ýƕŀƙƔďžǃ! Ɨƕƪǉ!Ǵƕ ĭƧƪŏ ƚŏơƕ ǴŃǉƧĂƥƬ ơŋŏƧǴƙƕ ǇƧƙŀŏ ĂƊ ƗŏƥƧ5 ĂƊ ƗŏďžŏƱǉƙ ƗŏƧƒƥǕƒ ƘƒƧƒƧŀ!ƒ

."[1]ŎƶŋƧ ƧƛƊƕ ĭƧƪƙ ǕĂ

ǇďžĂ" :ŃǇǉƊƕ 2005 ƧŏƒƧƕ5 2 Ŏ5 ƧƥǴƬ!ƒ ǴŋďžƗơ Ŏ5 ǾưŏƊ ǴŏǈƶƵ!ƒ ƗŏƧƒƥǕƒ Ɨďžƚơďž!ƒ Ƙưƥ Ă

ƘƒƧƒƧŀ!ƒ ƗŏƶŋƧ ǅƥƵ" ŎŃǉ ǈƥƵǴŀ!ƒĂ Ɨďžƚơďž!ƒ ǉŖŃǉ ǅǴưƥ ŃŏǈƵ ăƧŋ Ǵďž ǏǈƵ ýƬǕ̄ƒ ǇǪ Ɨŏơ

ǕĂ ýƕŀƙƪďž!ƒ ǏǈƵ ĭƧƪƙ ƚŏơƕ ǴŃǉƧĂƥƬ ơŋŏƧǴƙƕ ǇƧƙŀŏ ǴŃǉŖǴ5ǉ Ŏ5 ýƬǕ̄ƒ ǇǪ ƚŏơ "ƗŏƧƒƥǕƒ

Ɨƕƪƙƚďž!ƒ ƽĂŀơ!ƒ ǏǈƵ ǾƱǴ5ơ ǁ!ŖĂ ǴŃǉƧĂƥƬ ơŏƧǴƙ ǏǈƵ ƗŀƕǴƪ!ƒ ƴƑǴƥĂ!ƒ ǏǈƵ ŎƶŋƧ ƧƛƊƕ ĭƧƪƙ

Ɨƕƪǉ!Ǵƕ ƽƥƬƙ ǈƥƵǴŀ!ƒ ǉŖŃǉĂ ƴďžƙŋďž!ƒ Ŏ5 Ƙǖďžǅƶďžǃ! ƧƒƧŀƙƪƒĂ ǅŋǌ! ƗŏƙƒŖ!ƒ ƨƚƒƧďž!ƒĂ ƥƒƧ5ǖ!

."[2]ǅƒĂƪ ƥơ ǏǈƵ ƗŏơƑǖ!ƒĂ ƗŏƥƧ5!ƒ ƘƒƧƒƧŀǃ!

ǇďžƧŏƛƚ!ƒ Ŏ5 Ƙưƥ ƚŏơ ǋŃǌǉ!ƒ Ʃ5ǉ ǏǈƵ ǴŏǈƵ!ƒ ýƥƵ!ƒ Ɨďžƚơďž ƘƧǴƪ ǇƥƧǕ̄ƒ Ŏ5Ă

:ýǴƛďž!ƒ ýŏƕƪ ǏǈƵ ǴŃǉǉďž ƧƚŖǉ ǕĭƧƒƥǕƒ ƧƒƧŀ!ƒ ƗŏƶŋƧ ƨƒĂŋ ǅƥƵƕ ǴŃǉďžǴƚƊ

ǇďžưƙďžƒĂ ǅƒƧƨĂ!ƒ ƩǈŋďžýƕƥǇďž ƧƥǴƬ!ƒ ƧƒƧŀ!ƒ Ŏ5 ǇƶƱǃ! ƘďžƥƥŎƙ!ƒ ǇĂƶƱ!ƒ ăƥơǪ Ŏ5 ""

ƧƒƧŀ!ƒ ƒŖŃǉ ƗŏƵĂƧƬďž ǅƥƵƕ Ɨďžƚơďž!ƒ Ƙưƥ ǕƽƕǴƪ ơŏƧǴƙ Ǉďž ǭƧǴƕƙƵƒ ƳƒƥŏƙƪǕƒ ǏǈƵ ǇƵǴƱ!ƒ Ɨ!Ǵơǫ

ƥǴŃǉƙŋǕƒ ƧŀƙƪƒĂ" :ŃǇǉƊƕ Ɨďžƚơďž!ƒ ǅƚơ Ŏ5 ǅǴŋ ƥƥĂ .ƗŏƧƒƥǕƒ ƘƒƧƒƧŀ!ƒ ƗŏƶŋƧ ǅƥƵ ǅƥƕďž ŃǇƙ5!ǴƤďž!

ơŏƧǴƙ Ǉďž ǴŃǉǉǴŏƧƪ ƳŋĂƙŏ ǴďžǉǪĂ ŎƶŋƧ ƧƛƊƕ ƗŏƧƒƥǕƒ ƘƒƧƒƧŀ!ƒ ĭƧƪƙ ǇƊ ƨĂŋŏ Ǖ ŃǇǉƊ ǏǈƵ

ƽĂŀơ!Ǵƕ ƩǴƪďž!ƒ ǅƥƵ ƩǴƪƊ ǏǈƵ ǅĂŀŏ ƗŏƧƒƥǕƒ ƘƒƧƒƧŀ!ƒ ƗŏƶŋƧ ǅƥƵ ǅƥƕďž ǇƊ ŖǪ ǴŃǉƧĂƥƬ

ŃŏƶǈƵĂ ǇĂƶƱďž!ƒ ƧƒƧŀ!ƒ ƧƕƵƒ ǇƐ5 ŃŏǈƵĂ ǕǴŃǉƧĂƥƬ ƥǉƵ ƘƧŀƙƒ ƳǴưĂƊ ýƱ Ŏ5 ƥƒƧ5ǖ! Ɨƕƪƙƚďž!ƒ

ƳŋƒĂ!ƒ ǉƧĂƥƬ ơŏƧǴƙ Ǉďž ƩŏĂ ŎƶŋƧ ƧƛƊƕ ǾŏƧǴƪ ƳƒƥŏƙƪǕƒ ǏǈƵ ŎƵƥƙƪďž!ƒ Ɨ!Ǵơǫ ǇďžưƙďžƒĂ

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[1] ƗƵĂďžŋďž!ƒ Ǖƥƙ2001/3/11 ơŏƧǴƙƕ ƽ 42 Ɨǉƪ! 6748 ǅƥƧ ǇƶƱ!ƒ Ŏ5 ǴŏǈƵ!ƒ ƗŏƧƒƥǕƒ Ɨďžƚơďž!ƒ ǅƚơ ýŋƒƧ
ƧƛǕ̄ƒ ǕƳŏƪơ!ƒ ƥƕƵ ƥďžŏơƊ Ǖ2012ŎƪŏƧƙǉƪ!ƒ ƥďžŏơƊ :ŃŏǉǪ ƧǴƬƊ .1099 ƒ (120) ǅƥƧ ǈƥƵǴƥ (46)Ʃ
.228 ƒ Ǖ2012 ǕǈƧŃǴŀ!ƒ ǕƗŏƕƧƶ!Ɨ ƗưŋǉǇ!ƒ Ƨƒƥ ǕĭƧĂƙƪƥ!ƒĂ ĭƧƒƥǕƒ ǅǴưŀ!ƒ Ŏ5 ŎƶŋƧ!ƒ
ǈƧƑƥ!ƒ -ǅ2005/2/2 ơŏƧǴƙƕ ǇǇ ǴŏǈƵ .ƽ 49 Ɨǉƪ! 3256 ǅƥƧ ǇƶƱ!ƒ Ŏ5 ǴŏǈƵ!ƒ ƗŏƧƒƥǕƒ Ɨďžƚơďž!ƒ ǅƚơ ýŋƒƧ[2]
.ǴŏǈƵ ƗƪƥǴƪ!ƒ

[illegible]

[illegible]

[illegible]

[illegible] .[1]

[illegible] 1948 [illegible] 31 [illegible]

[illegible]

[illegible] 1969 [illegible] 24 [illegible]

[illegible] .[2] Valeur legislative [illegible]

[illegible] .[3]

(1) [illegible] .508

(2) C.C 24oct. 1969,cons. Const.,p.32 [illegible] .271-270

(3) [illegible] .271

[illegible] 1923 [1][illegible]

[illegible] 2012

[illegible] (223) [illegible] 2012

[illegible]

[illegible].

[illegible] 1938 [illegible] (58) [illegible]

[illegible] (66) [illegible] 2006 [illegible] (147)

[illegible]

[illegible].[2]

[illegible] (223) [illegible]

[illegible] (66)

[illegible].

[illegible]

[illegible]

[illegible]

[illegible] 1947 [illegible] :[3] [illegible]

[illegible]

---

(1) [illegible] (6) [illegible] 1923 [illegible].

(2) [illegible] .271 [illegible]

(3) [illegible] 1947 [illegible] (886) [illegible] 602 [illegible]
1947/2/1.

[illegible]

[illegible]

[illegible]

(1) [illegible] 2009 [illegible] 226 [illegible] 1982 [illegible] 81 [illegible]

(2) [illegible] 126 [illegible] 149 [illegible] 225 [illegible]

[illegible]

(1) [illegible] 2004 [illegible] .54 -52

(2) [illegible] 2007 [illegible] 34 [illegible] 4 [illegible] 99.

[illegible] [1]

[illegible] [2]

[illegible] [3]

[illegible] Ratione temporis [4] [illegible]

[illegible] [5]

[illegible] 17 [illegible] Bigot [illegible]

[illegible] 1907

(1) [illegible] 1998 [illegible] 103.

(2) [illegible] 224.

(3) [illegible] 126.

(4) [illegible] 508. Marc Wallerich,la securite juridiqu appliquee a la modification des conditions de versement dune indemnite, AJDA2009P. 2049> [illegible] 287.

(5) [illegible] 1984 [illegible] 512.

[illegible] Teissier [illegible]

[illegible] Teissier [illegible]

[illegible] .[1]

[illegible] .[2]

[illegible] .[3]

[illegible]

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(1) [illegible] C.E. 17MAI 1907,LE BIGUT,CONCLE.teisser,rec,p.460

[illegible] 279 [illegible] .72 [illegible] .512

(2) [illegible] .512

(3) [illegible] 1988 [illegible] .314

31 Ǒ5 ƧþǴƬ!ƒ Ǵnjdž ǂơ Ǒ5 ƘƧƧp ǂǒơ ÜǏǈzdž!ƒ ƒƦnjǈ ǴǒǈƸ!ƒ ǂǒƧƒþǗƒ ǂdžǂơdž!ƒ ƘƦƤƊ þpǍ

ƧƛǈǷ NJǈ ƧƧlǆ!ƒ NJƞǍ!ƒ ǏǈƸ ǂǒƑǴnjǈ!ƒ ǂǒƧǍnjdžƞ!ƒ ƩǒƑƧ ƧƒƧp ǄǴǂơƊ ǎƧƪƙ" NJǈǷ 2003 ƧǷdžƪǒþ

NJǈǒþƸƙ ýǷp (220) ƚþǴǆ!ƒ ƒ ǈ! ǴƖǈƱ ƔǍƪƧ!ƒ ƘƒƧǆ ƒǍþƽǈƙƪǒ Ǆ! ǇǒƦ!ƒ ƔǛƱ!ƒ ǏǈƸ ƧƬǴǷdž

ƩǒƑƧ ƧƒƧlǈ ýdžƸ!ƒ ýǷp ƔǍƪƧ!ƒ ƘƒƧǆ þǴƽǈƙƪǓ ƒǍǈƬ5 ǇǒƦ!ƒ ƔǛƱ!ƒ ǊNJǒ!ǫ ƧǴƬdž!ƒ ƧƒƧl!Ǵǈ

ǇƎ5 ǊǁǁƦ ǏǈƸ ǴǷǒƙƧƙ ǊƧƒƧl!ƒ ƒƦNj Ǵnjǈdž ưƙ Ǒƙ!ƒ ƘƒƧǒƪǒƙ!ƒ Ǉdž ƚþǴƽǗƒ Ǆnj! ƾơǒ Ǔ ǂǒƧǍnjdžƞ!ƒ

ǑƸdžǴƞ!ƒ ǄǴƸ!ƒ Ǒ5 ǄnjǈƬ5 Ǆƙ ǇǒƦ!ƒ ƔǛƱ!ƒ ýƬ5 ƘƒƧƒƧp Ɣơƪ ƨƒǍƞǈ ǂƸdžǴƞ!ƒ ƩǈƞdžƧƒƧp

ǇǍǂǒ ǇǒǴƙdž ǇǒdžǴƸ ƚþdž! ǇǴơƙdžǛ! Ǆþlƙ!ƒ Ǒ5 ƾơ!ƒ Ǆnjơǈdž ƴdž ƔǍƪƧ!ƒ ƘƒƧǆ þǴƽǈƙƪǓ 92/91

ƔǛƱ! ǂǈƪǈ!Ǵǈ ǷƒǍƪ NJǈǒǷƱƙ ƨǍƞǒ ǓǍ Ü1992 ǂǈƪ! 26 ǄpƧ ǂǒƧǍnjdžƞ!ƒ ƩǒƑƧ ƧƒƧl! Ǵƽ!ǴƤdž

ƧƒƧl! ýǒþƸƙ Ǉdž NJǒǈƸ ǐǍƱǈǒ Ǵdž! ÜǂǒƑǴnjǈ!ƒ Ƨǒƺ ƾƧƽ!ƒ ƔǛƱ Ǉdž ǄnjǈǍþ Ǉdž ǍƊ ÜǂǒƑǴnjǈ!ƒ ǂpƧƽ!ƒ

ǈƧǍþƬ ǏǈƸ ǂǈǴƪ!ƒ ýƬƽ!ƒ ƘƒƧƒƧp ǏǈƸ ǑƸƞƧ ƧƛǈǷ NJǈǴǒƧƪ Ǐ!ǫ ǐþƋǒ ǴdžǷǍ ÜǂǒƧǍnjdžƞ!ƒ ƩǒƑƧ

ǂǒǈǍǈǴl!ƒ ƚƒþǛǴǈ ǁ!Ʀ Ǆƙǒ Ǉƀ ǇǒƸƙǒ ǴdžǈǫǍ ÜǈƧǒƧlƙ ƧNjƨǛƒ ǂƸdžǴƞ ƩǈƞdžǴ ǁǈdžǒ Ǔ Ǵdž ǍNjǍ

ƩǒƑƧ ǂƱǈƪ! ƔƬƺ ǏǈƸ ǐǍƱǈǒ ƧNjƨǛƒ ǂƸdžǴƞ ƩǈƞdžǴ ƧƒƧp Ǌǁ!Ʀ ǎþƋdž -ǂơǒơƬ!ƒ

.[1]NJǈǒǷƱƙ ƨƒǍƞ ǄþƷǍ ǂ!ǴƛǍ!ƒ þǈǷ!Ǵǈ NJǈdž ưƙ Ǵdž ƟƧƱ NJƸdž ǇǒƸƙǒ ǂǒƧǍnjdžƞ!ƒ

þƷƒǍp ǏǈƸ ǐþƸƙ!ƒ ƔǴǈ Ǉdž ǐƧƒþǗƒ ƧƒƧl!ƒ ǂǒƸƞƧ ǈƧǴǷƙƷƒ Ǆǂơ!ƒ ƒƦNj Ǉdž Ǆnjƽǒ ǴdžǴǍ

ǏǈƸ NJ!ǴdžƷǫ ƾǴƱǈ ƚþdž! ÜƔǍƧƬdž Ƨǒƺ ƧNjƨǛƒ ǂƸdžǴƞ ƩǈƞdžǴ ƧƒƧp ǇƊ ǇǒǷ ǂǒơ Ü ƒ ǴƬƙƤǛƒ

ƩǒƑƧ ƒ ǴƬƙƤƒ ǏǈƸ ǴǒþƸƙ þƸǒ NJǈǛ ÜǂƸdžǴƞ!ƒ ƩǈƞdžǴ NJǂǈdžǒ Ǔ ƒƦNjǍ ÜǈƦǴƽǈ ýǷp Ƙdžƙ ƘǛǴơ

.ǂǒƧǍnjdžƞ!ƒ

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[1] Ǆǂơ ǂdžǂơdž!ƒ ǂǒƧƒþǛƒ ǴǒǈƸ!ƒ Ǒ5 ǇƸƱ!ƒ ǄpƧ 123!ǈƪǈ 41 ǫǒƧǴùǈ 2003/12/31. ƧǴùƬƒ NJùǒ!ǫ þùǆǒơƊ
.283 ƒ ÜƾǷǴƪ ƧþƬdž ÜǐƧƒþǛƒ ƧƒƧl!! ǑƸƞƧ!ƒ ƧƛǛƒ ÜǑƪǒƧǈƪ!ƒ

[illegible] [1]

[illegible]

[illegible] [2]

[illegible] [3] [illegible]

[illegible] (Louis Favoreu) [illegible]

[illegible] [4]

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(1) [illegible] 130 [illegible] 73/291 [illegible] 66.

(2) [illegible] 1979 [illegible] 40.

(3) [illegible] 1982 [illegible] 93.

(4) [illegible] 285. louis favoureu, principes generaux du droit et ordonnances non ratifiees, 1996,p1111.

[illegible] (Chenot) [illegible]

[illegible]

[illegible]

.[1][illegible]

[illegible]

[illegible] [2][illegible]

[illegible]

."[illegible]

[illegible]

.[3][illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

.[4][illegible]

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[1] [illegible] 509 [illegible] ..288-186 [illegible]

[2] [illegible] .122 [illegible]

[3] [illegible] 1982 [illegible] .82 [illegible]

[4] [illegible] .313 [illegible]

Ǒƙ!ƒ ǑŃǰǍ ĎǐǴƶ!ƒ Ơ!ǴƬ!ƒǍ Ƚ!ƒƥƶ!ƒǍ ǑƶǒǊƱ!ƒ ǇǍǈǴǀ!ƒ Ďǐǂơ!ƒ ƒ ǈ Ǒ5 ƥƧƒǍ!ƒ ǇǕ ǕŃǊơǐ Ƨǒƹ Ǒ5

:Ƚǐǂơǐ!ƒ ýǍƿ ȽƬǴƤ Ƚ5ƬǊǍ ǇǍǈǴǀǊ! ȽǐǴƶ!ƒ ƏƥǴǊǐ!ƒ Ǐ!ǫ ȽǒƶƞƧ!ƒ ĎƥƵ ĎƥǊǐ ǉƥƧ Ǒ5 ǴǌǒǊƵ ƨǂƙƧƒ

ƏƥǴǊǐ!ƒ ǇǍǂǊ ƥǍƥƧǐ ƒƦǌ ǇǊ Ǖǫ .(ȽǊƪƙǂǐ!ƒ ƨǍǀơ!ƒ ĎƒƧƙơ ǍǌǑƶǒǊƱ!ƒ ǇǍǈǴǀǊ! ǴǀǊƱ ýƬǕƒ)

ǈƇǴƣ ǀ!ƒ ǴǌǀǊƱǒ ƥƿ Ǒƙ!ƒ ǕǑƶǒǊƱ!ƒ ǇǍǈǴǀ!ƒǍ ýƥƶ!ƒ ƥƵƒǍƿ ǴǉƽǊƪǊ ǴǐǂǴǌǊ ƥƬǀǒ Ǖ ǇǍǈǴǀǊ! ȽǐǴƶ!ƒ

ǴŃƥǍƥơ ǇǒǊǍ ǴǌǊǒƬǴƽƙ ƴƣǍǍ ǏƧƒƥǕƒ ƇǴƣǀ!ƒ ǴǌƬǊƤƙƪƒ Ǒƙ!ƒ ȽǐǴƶ!ƒ ƏƥǴǊǐ!ƒ ǴǌǊ ƥƬǀǒ Ǵǐǈǫ

ȽǒƵǍƧƬǐ!ƒ ƧƥǴƬǐ ǇǐǑ ǂƧƥƬǐ ǴŃƧǴƙƵǴǊ ǴǌǀǊƱǍ Ƚ5ǊƙƤǐ ƨƧƱǊ ƇǴƣǀ!ƒ ǴǌƬǊƤƙƪƒ ƥƿǍ .ǴŃƒƥǐǍ

ǇǐǑ ǂƧƥƬǐ ƥƶǒ ǴǐŃǕȽ5 ǇǍǈǴǀǊ! ȽǐǴƶ!ƒ ƏƥǴǊǐǊ! ƧǒǴƺǐ ǑƶǒǊƱ!ƒ ǇǍǈǴǀ!Ǵ5 .ǴǌǒǊƵ ǄǍƧƤ!ƒ ƨǍƞǒ Ǖ

Ǖ ǑƶǒǊƱ!ƒ ǇǍǈǴǀ!ƒ ǇǊ Ǖǫ ǕȽǊǍƙǂǐ!ƒ Ƨǒƹ ƧƥǴƬǐ!ƒ ǇǐǑ ǴƣǒǍ Ƚ5ǍƧƶǐ!ƒ ȽǒƵǍƧƬǐ!ƒ ƧƥǴƬǐ

ǕȽǊǍƙǂǐ!ƒ Ƨǒƹ ƧƥǴƬǐ!ƒ ǇǐǑ ǑŃǰ5 ȽǐǴƶ!ƒ ƏƥǴǊǐ!ƒ ǴǐǊ ǕǈƧƒƥƬǊ ƒ ƙƤǐ ǑǐǍǂơ ǍƣƵ ǇƵ Ƨƥƴ

ȽŃǴƞǍ!ƒ ǇǐǑ ŃǊ! ýǍǀ!ƒ ƒƦŃǍ .[1] ""ǏƧƒƥǕƒ ǈǴƣǀ!ƒ ǑŃǰ ȽǐǍǂơ!ƒ ƘǴƒǑŃǰ ǇǐǑ ȽƑǑŃǰ ǉƒƧƧǀƙ ǁ!Ʀ ƴǐǍ

.ŃơǍƣǍǍ ŃƙƥǊ! ýƒǍƿǕƒ ǇǐǑ ǉƧǒƺ! Ʃǒ! Ǵǐ ǈƥƒƥǊ!ƒǍ

ȽǒƶƞƧ ĎƥƵ ĎƥǊǐ ƩǴǊǊ ǇǊ Ǐ!ǫ ǴǒǀƶƧ!ƒ ýƥƶ!ƒ ƘƒƧƒƿ ǇǐǑ ƥǒƥƶ!ƒ ƘƧǴƬǊ ǇƥƧǕƒ Ǒ5ǍǍ

Ǒ5 ƇǴƞ Ƚǒơ ǕŃơƞƧǍ ƘǴǐǕǊ!ƒ ǀ!ƙ Ǐ!ǫ ƧǴƬǊ ǴǐǂȽǒǍǈǴǀ!ƒ ƏƥǴǊǐ!ƒ ǇǐǑ ŃǊǊ ȽǒƧƥǕƒ ƘƒƧƒƧ!ƒ

ǇǐǑ ǍŃǰǍ Ǖ ƒ ǴƤƬǕƒ ƨǍǀơ ȽǒǴǐơ ǏǀƵ ǴǊǴǊ ĎǍǀǒ ȽǒƶƞƧ!ƒ ĎƥƵ ĎƥǊǐ ǇǊ :ǴǌƙƒƧƒƿ ǎƥơǫ

.[2] ǀƒǍǊǐ!ƒ ƘǊƞǍ Ǒƙ!ƒǍ ǇǍǈǴǀ!ƒǍ ƧǍƙǊƥ!ƒ Ǒ5 ȽǐǴƶ!ƒ ƏƥǴǊǐ!ƒ

ƘǴǋƶǊ!ƒ ĎǴǕǈ ƨǒǊƱƙ ƺǍƞǒ Ǖ ŃǊǐǊ ýǍǀ!ƒ ƥƧǒ Ǖ ...:ŃǊǐǊ ǴǒǀƶƧ!ƒ ýƥƶ!ƒ Ƚǐǂơǐ ƘƣƿƒǍ ǁ!Ʀǂ

ýơǒ ƧƤǀ ýǒƧƬǂ ǏǐǊ ýǍǊǀ!ƒ ǏǀƵ ƥǀƶ!ƒ Ǒ5 ƨ5ƒǍ ƥƿ ǑƵƥǂƙǐ!ƒ ǇǊ Ďƒƥ ǴǐǑ ǑƵƥǂƙǐ!ƒ ƨơǊ ƥǒƥƞ!ƒ

Ƶ!ǴƤǒ ŃǊǐ ǻƣ5 ǑƵƥǂƙǐ!ƒ ǈǴǐƒƺƙ!ƒ ǇǐǑ ƥǒƺǒ ƥǒƥƞ!ƒ ýǒƧƬƙ!ƒ ǇǕ ǁ!Ʀ ǕƨǊǴƙ!ƒ ĎǴǕǈǊ!ƒ ýơǐ

ǉƧƧǀǐ!ƒ ȽǒǈǍǈǴǀ!ƒ ƏƥǴǊǐ!ƒ ǇǐǑ ǕŃǂƬǕƤ ǏƦ!ƒ Ďǐ1982 Ƚǈƙ! (18) ĎǴƧ ǇǒǈƒǍǀ!ƒ ƧǒƙǊƙ ǇƒǍǒƥ ƧƒƧƿ

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[1] .291 ƒ ǕƨǊǴƙ ƴƞƧǐ ǕǑƶƞƧ!ƒ ƧǂǕƒ ǕǑƙǒƧƙǈƙ!ƒ ƥǐǍǀǊ

[2] ƴƥƶ ƧƒƧƿ ǴǐǊƵ 2008/294 ĎǴƧ ƧƒƧƿ ǴǐǊƵ ƴƥƶ Ǖ2008/294 ĎǴƧ ƴƿƒǐ Ďǐ ƩǴƱƙƿ .

LJĂLjĠl!ƒ LJDĂ lþƵĠl!ƒ ljŖnjǀ ǻdžĂǂơdž LJĂǂŏ Ǝdžŏþl!ƒ ƎŏLjĂLjĠl!ƒ lþƵĠl!ƒ ýU Ŏ5 YĠưĂD LJdž Džk Ġdž LJD

.(1)......lƨƑĠȠ Ƨŏƺ ƎŏƶȠƧ ΣĠʅdž!ƒ LJD ƧĠǀkƵƒ ǏǁƵ ljŖĠ5Lj ýǀp Ƨ5ƒĂk Ġdž Σdžŏ Ǚ þŏþȠ!ƒ

ƎdžĠƶ!ƒ Əþǁdž!ƒ LJdž ƎŏƶȠƧ!ƒ DžþƵ Dþǀdž LJD ƧĠǀkƵƒ LJþƧǕƒ Ŏ5 LJŏLjƒĂl!ƒ Ƨŏʅ5k LJƒĂŏþ þǂD þpĂ

.(2)Ġnjǀ ΣĠʅdž!ƒ ƨĂȠŏ Ŏk!ƒ ƎŏLjĂLjĠl!ƒ

:NƮLj Ġdž ĭƧŏʅ5k!ƒ ƧƒƧl!ƒ Ŏ5 CĠȠ ƚŏơ

:LJdžƨ!ƒ ƚŏơ LJdž LJŏLjƒĂl!ƒ YƨĠLjk ýơ LJĠdžǂơŏ LJŏDþǀdž ǁĠLjNj LJD ƚŏơĂ"

.ljŖĠ5Lj ýǀp ŎưĠdž!ƒ Ŏ5 ýþĂ Ġdž Ǐǁƶ ĭƧʅŏ Ǚ LJĂLjĠl!ƒ LJD ǏLjƶdžǀ LJĂLjĠl!ƒ ƎŏƶȠƧ DžþƵDþǀdž :üNjǕɛ

.(3) "......LJĂLjĠlǁ! ƧƮĠǀdž!ƒ ƧʎǕƒ Dþǀdž :ǏdžƑkǁɛ

Ġnj! ƘƒƧƧǀdžǀ ƒŖNj NJŏDƧ þŏDĂ üƘĠdžǖʅ!ƒ ƧƮĠLj ƠȠƧĂ ƔNjŖ Ġdžǂ LJĂLjĠlǁ! NJdžĠƶ!ƒ Əþǁdž!ƒ Ǐǁƶ

Əþǁdž!ƒ Ǐǁƶ ƎŏƶȠƧ!ƒ DžþƵ Dþǀdž! NJơŏȠƧkĂ ƒŖNj N!Ăp Ŏ5 þLjkʅƒ ƚŏơ Ġnj! Ġdž ƎơĠȠƧ!ƒĂ ƎNjĠȠĂ!ƒ LJdž

:Ŏǁŏ Ġdž! LJĂLjĠlǁ! NJdžĠƶ!ƒ

ýǀp LJdžĂ Ü1992 DžĠƵ ŖLjdž ƘƑƮLjD LJƒ þƶǀ Ġŏǁƶ!ƒ ýþƶ!ƒ Ǝdžǂơdž LJƵ ljƧþĠƮ!ƒ DžĠǂơǕƒ Ǝ5Ġǂ LJǫ

DžĠǂơǕƒ LJǫ ýǀ ÜƎŏƧĂkʅþ!ƒ ƒ ĂƮLj!ƒ Ǐǁƶ Dþǀdž!ƒ ƒŖNj Σŏʅǁk Ǐ!ǫ ƧŏƮŏ Ġdž ĠnjŏƼ þƧŏ Dž! ǁ!Ŗ

ƧǀƵ DžĠƶ!ƒ LJĂLjĠl!ƒ Ǐǁƶ Dþǀdž!ƒ ƒŖNj Σŏʅǁk Ǐ!ǫ ƘƧĠƮD þp Ġŏǁƶ!ƒ ýþƶ!ƒ Ǝdžǂơdž LJƵ ljƧþĠƮ!ƒ

Əþǁdž!ƒ) Ġnj!Ălǂ ǁ!Ŗ Ǐ!ǫ ƎơƒƧƮ ƧŏƮk Ŏk!ƒ ƘĠơǁƠƮdž!ƒĂ ƘƒƧǁƶ!ƒ Ưƶǀ! ĠnjdžƒþƤkʅD

ýþƶ!ƒ Ǝdžǂơdž LJƵ ljƧþĠƮ!ƒ DžĠǂơǕǁ ƒŖNj NJŏDƧ þŏDĂ .(lƧlkʅdž!ƒ Əþǁdž!ƒ)(NJdžĠƶ!ƒ Əþǁdž!ƒ)(ƎŏLjĂLjĠl!ƒ

Ǝ5LjǕƒ ƔĠʅǖ! NJơȠƧŏĂ ƚơǁ!ƒ ljþŏƋŏ Ġdž ƒŖNjĂ .(4)LJŏLjƒĂl!ƒ Ƨŏʅ5k ƧƒƧp Ŏ5 þƧĂ ĠdžǀĂ . Ġŏǁƶ!ƒ

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(1) Džǂơ Ǝdžǂơdž ýþƶ!ƒ Ġŏǁƶ!ƒ Ŏ5 ăĂƵþ!ƒ DžpƧ Ü1982/138 ƧþĠƮ!ƒ Ŏ5 1982/7/17 ÜDž Ǝǁdž ƎǁĠlLj Ǝǀĭǁ!ƒ ǁŏdžĠùơdž!ƒÜLJŏdžĠ
.LJŏdžĠơdž!ƒ ƎǀĠlLj Ǝǁdž Ü1360 ƒ

(2) ƧƒƧp Ƨʅ5k LJŏLjƒĂl!ƒ DžpƧ 18 !ʅLjƎ 1972 ÜDž ƧþĠƮ!ƒ ƨŏƧĠkǀ 1972/9/24 Dž lþŏƧȠ!ƒ ÜƎŏdžùʅƧ!ƒ þþùƶ!ƒ DžùpƧ
ÜƎŏdžùʅƧ!ƒ lþùŏƧȠ!ƒ ÜDž 1987/5/5 ƨŏƧĠùkǀ ƧþĠƮù!ƒ Dž 1987 ʅLjƎ! 18 DžpƧ LJŏLjƒĂl!ƒ Ƨʅ5k ƧƒƧp Ü2092 ƒ Ü2389
.1506 ƒ Ü3492 DžpƧ þþƶ!ƒ ÜƎŏdžʅƧ!ƒ

(3) ƧƒƧp Ƨʅ5k LJŏLjƒĂl!ƒ DžpƧ 2 ʅLjƎ! 2005. ĂLjƒƧƱ Ŏ5 ǁ!Ŗ ƒƧl!ƒ DžpƧ 2008/294 Dž. ýþĂdž ƱʅƠĠƧ.
(4) ƠȠƧ ƒŖNj ĭDƧ!ƒ ÜƘĠdžǖʅ!ƒ ƧƮĠLj ÜƱƧŏƮƒ ÜƘĠdžǖʅ!ƒ ŖĠ5Lj Ƨl!ƒ ƧƒƧþƒŏĭÜ ƧƒƧȠʅdž ýùȠĂ ʅ5ǀƥÜ ƒ 244_246
. ƘĠƮD ƒ!ǫNJ ƒŏǂơDžĠ DžƎ!ƒŏ: Džǂơ Ǝdžǂơdž ýþƶ!ƒ Ġŏǁƶ!ƒ Ŏù5 (1985/41)DžpƧ ĂƵþù!ƒ lþŏƧȠ!ƒ 1985/3/17Ü
lþŏƧȠ!ƒ 1983/5/26 Ü883/177 DžùpƧ ĂƧƒƧùp ĭƧŏʅù5k (1)DžùpƧ ùʅLjƎ! 1978 ÜƧþĠƮù!ƒ
.1978/6/1:lþŏƧȠ!ƒ

[illegible]

[illegible]

[illegible]

[illegible] .[1]

[illegible]

[illegible]

[1] [illegible] 1997 [illegible] .290 [illegible]

ýǂ ƨƒƥǸǫ Ĭ!ǫ ĭƥƋŏ ŎƶƞƧ ƨƛǊƾ ƘƒƨƒƨƤ ƨƒƥƮǫ ƽơ ƪƨƒƥŰƒ ǈŏǂǆǩ ǈǕ ǁ!ƦĂ ÜƗŏǉĂǉǴǀ!ƒ ƘǴƤŭƶ!ƒ

.(1) ƘƒƨƒƨǀƒǉƦǊ Ŏ5 ǈǆƬ!ƒ ĭĂƦ! ƨƒƨǀǨǃƒĂ ǈǴǆǄ

ǄƨǀǨǃƒĂ ÜƗŏǉĂǉǴǀ!ƒ ƽǂƒƨǆ!ƒ ƨƒƨǀǨǃƒ ƪƨĂƨư Ĭ ƶ ĭƨƮǆ!ƒ Ɨ!Ăƥ!ƒ Ʃ ƞǆ ƥǂǄ ƥƤĂ ÜƒƦǊ

ƨƥǴƮ!ƒ ǇǆǂơŎ5 Ĭ ưƤ ǁ!Ʀ! Üƽǂƒƨǆ!ƒ ǉƦǊ ǆƬǉǄ ĭƦ!ƒ Üĭƨƒƥǖƒ ƨƒƨǀǴ Ŏǀŏǀơ!ƒ Ǆƶ!ƒ ƪƨĂƨư

ƨ5Ăǩ ǈĂǊƨǆ ǴǉǩƵƽƵƽ ǄƥƵĂ ƗŏǉĂǉǴǀ!ƒ ƽǂƒƨǆ!ƒ ƨƒƨǀǨǃƒ Ĭ ƶ Ʋǵơ!ƒ" :ǈǆ 2003 ĂŏǴǆ 8 Ŏ5

ǉƦǊ ƘǆƬǉǄ ŎǨ!ƒĂ Ǆǉǈ ƗǃǴǆ!ƒ Ƙƒƨƒƨǀ!ǴǊ -ǿŏưƒƨǩ5ƒ ŮĂ ǿŏǉƱ Ů ǈǿŏǀŏǀơ ǿǆǆƵ ǈǆƬ!ƒ ƔǴơƮǄ ǄƵ

.(2)"Ƙƒƨƒƨǀ!ƒǉƦǊǈ ǈǆƬ!ƒ ƔǴơƮǄ ǈŭƵǈ ƪƨƒƥŰƒ Ɨǉƞ Ǆƒƽǩ!ƒĂ ƽǂƒƨǆ!ƒ

ƽǂƒƨǆǀ! ƪƨƒƨǀǨǃƒ ƗŏƨƒƥŰƒ Ƙƒƨƒƨǀ!ƒ ƗŏƶƞƧ ǄƥƵ ǄƥǈǆƵ Ĭ ƶ ǇǆǴǂơǄ ǈǆ ƥƥƵ Ŏ5 ǿưŏǄ ƥǂǄĂ

Ǉǈ ýǆƶ!ƒ ơŏƨǴǩ ǈǆ ýǴơ ƨƛǊ Ǉ! ƪƦ5ǉǆ!ƒ ƘƒƨƒƨǀƒĂ ǈĂǉǴǀ!ƒ ǄǴǂơǄ ĭƨǃǩ ǈǄ ƨƨǀ5 ÜƗŏǉĂǉǴǀ!ƒ

.(3)ƗǈǃǩǂǆƬ!ƒ ƗŏǉĂǉǴǀ!ƒ ƽǂƒƨǆ!ƒ ƨƒƨǀǨǃƒ ǈǴǆư!

ƪƨƒƨǀǨǃƒ ƗŏƨƒƥŰƒ Ƙƒƨƒƨǀ!ƒ ƗŏƶƞƧ ǄƥƵ ǄƥǈǆƵ Ĭ ƶ ŎǉƥƨŰƒ ĭƨƒƥŰƒ ƇǴư!ƒ ƥǂǄ ǴưŏǄ ǁ!ƦǂĂ

Ƶ!ǴƤǆ ǈŏƶƱ!ƒ ƨƒƨ!ƒ ...) ǴǉǩƨƒƨƤ ăƥơǫ Ŏ5 Ƈǵƞ Ɨŏơ ƨƒƨƤ ǈǆ ƨƛǂǄ Ŏ5 ƗŏǉĂǉǴǀ!ƒ ƽǂƒƨǆǀ!

ƽǂƒƨǆ!ƒ ƨƒƨǀǨǃǴǊ ǴǃǴǃǆ ƥƶŏ Ɨŏƶƞƨ!ƒ ǄƥƵ ƪƥƵǴ! ǇǨǴƵƒƨǆ ǄƥƵĂ ÜƗŏǉĂǉǴǀ!ƒ ýĂƮŰƒĂ ýƤƒĂǀ!

.(4) ((ƘƒƇƒƨƞŮƒĂ ýǂƬ!ƒ Ɨ5!ǴƤǆĂ ...ƗŏǉĂǉǴǀ!ƒ

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(1) ƥǆơǄ ÜŎǃǨƨǩǉǃ!ƒ ÜŎƶƞƨ!ƒ ƨǊǕƒ ýƞƨǆ Üƽǵǃ f 251.

(2) ƨƒƥǂǄ ǈǆ ƗǴǆǂǆ!ƒ ƗŏƨƒƥŰƒ ƗŏǉǀƵ Ŏ5 ǈƶƱ!ƒ ƨƤǄ 11225 !ǃǉƗ 46 Üƽ ǴǉƨǴƵ Ü2003/5/8 ǄƒƨǉǊƵǆ!ƒ ƗƵĂǆƞǆ Ʃ (48) ǈƵƞ (3) ƥƵƥƵ (2)Ü f 16.

(3) ƨƒƥǂǄ ǈǆ ƗǴǆǂǆ!ƒ ƗŏƨƒƥŰƒ ƗŏǉǀƵ Ŏ5 ǈƶƱ!ƒ ƨƤǄ 1687 !ǃǉƗ 7ƽ ǴǉƨǴƵ 1965/5/30 ǄƒƨǉǊƵǆ!ƒ ƗƵĂǆƞǆ ǈǆ (10) ƥƵƥƵ (139) f 1521Ü ĂƨǴǆǩǆ Ŏ5 ǈƶƱ!ƒ ƨƤǄ 1050 !ùǃǉƗ 7ƽ ǴǉƨǴùǊƵǆ 1965/11/28 Ü(11) ƥƵƥƵ (3) ƗƵĂǆƞǆ!ƒ Ü f 17. ĂǉƤƨƒ Ƙƨƒƨǀ!ƒ ƗŏǀǨ!ƒ:

- ƨǀƵ ƗǴǆǂǆ!ƒ ƗŏƨƒƥŮƒ ƗŏǉǀƵ Ŏ5 ǈƶƱ!ƒ ƨƤǄ 8661 !ǃǉƗ 47 ƗŏǆǴưƤ ǴǉƗǉƞǈ 2005/1/29

- ƨǀƵ ƗǴǆǂǆ!ƒ ƗŏƨƒƥŮƒ ƗŏǉǀƵ Ŏ5 ǈƶƱ!ƒ ƨƤǄ 2484! ǃǉƗ 34 ƗŏǆǴưƤ ǴǉƗǉƞǈ 1992/2/29

(4) ƨƒƨƤ ƥƥƵ ǴǉǆǴ ƨƤǄ : 2005/516Ü ƨƒƨƤĂ ƥƥƵ ǴǉǆǴ ƨƤǄ 2006/516Ü ƨƒƨƤĂ ƥƥƵ ǴǉǆǴ ƨƤǄ 2012/101. ƨƒƨƤĂ ƥƥƵ ǴǉǆǴ ƨƤǄ : 2013/101. ƥƤĂǄ ǃƱǴƩ.

[illegible]

[illegible] [1]

[illegible] [2] [illegible] 1984 23 [illegible]

[illegible] [3]

(1) [illegible] 246.

(2) [illegible] 562. [illegible] 246.

(3) [illegible] 790 [illegible] 22 [illegible] 1984/6/23 [illegible] (29) [illegible] (203) [illegible] 1274. [illegible] 245.

[illegible] 2001 [illegible] 11 [illegible]

[illegible]

[illegible]

[illegible].[1]

[illegible]

[illegible] 1971 [illegible] 23 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible].[2]

[illegible])) : [illegible]

([illegible]) [illegible]

[illegible]

[illegible]

[illegible] 2005/11/17 [illegible]

[illegible] (2005/10/6) [illegible] (2005/1320)

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(1) [illegible] 2001/3/11 [illegible] 42 [illegible] 6748 [illegible] (46) [illegible] (120) [illegible] 1099. [illegible] 245.

(2) [illegible] 1015 [illegible] 1971/11/23 [illegible] 1971/10/27 [illegible] 229.

[illegible]

[illegible] (2005/1320) [illegible]

[illegible]

(2006-2005) [illegible]

[illegible]

[illegible] 2005/9/16

[illegible]

[illegible]

[illegible]

[illegible]

.[1]"[illegible]

[illegible]

[illegible]

[illegible] ...." : [illegible]

[illegible]

[illegible] (74) [illegible]

[illegible] 1981

[illegible]

[illegible]

(1) [illegible] 207 [illegible] 2006 [illegible] 2 [illegible] 2007 [illegible] 1962.

1982 ŀǀĵʅ! (18) ĎįƿƧ ǈĴŏǀĵƒĂǀ!ƒ Ƨŏʅƽk ǈĴƒĂŏƥ ƧƒƧƥ ƻ!ĜƤŏ ǊǀǀĵĐ ǈĴƵ ƫǐ ư5 ÜŎƵƥkʅđž!ƒ ƘĜđžƒƨk!ƒ

ŀŏǀĵĂǀĵĜǀ!ƒ ǀƥƵĜǀ!ƒ ýƱ Ŏ5 ƳĜưĂĐ ǈĴđž Ďk Ĝđž ǈĴĐ ǀƧƧǀđž!ƒ ŀŏǀĵĂǀĵĜǀ!ƒ ƏƥĜǀđž!ƒ ǈĴđž ǊǀǀĵĐ" Ǌkƫ ǖƤ ĭƦ!ƒ

ǈĴĐ ƧĜkƵƒ Ĭǀ Ƶ ǀĵƦĜ5ǀĵ ýǀp Ƨ5ƒĂk Ĝđž Ʃđžŏ Ǚ ƥŏƥƞ!ƒ ǈĴĂǀĵĜǀ!ƒ ǈĴĐĂ ǀƥƵĜǀ!ƒ ǀĵƦǌǀĵ ǼđžĂǂơđž ǈĴĂǂŏ ŀđžŏƥǀ!ƒ

.[1] ((ǀƨƑĜƞ Ƨŏƹ ŀŏƶƞƧ ƩĜʅđž!ƒ ƒƦǋ

Ŏk!ƒ ĜǌkƒƧƒƧp Ɣơʅǀ ǀƧƒƥǗƒ ƘƒƧƒƧp ŀŏƵĂƧƬđž Ďƥƶǀ Ďǂơǀ! ƧƧǀđž!ƒ ƒƦǌ! ŀđžǂơđž!ƒ Ƙƥǀĵkʅƒ Ĝđžǂ

ĭƥƧ5!ƒ ĭƧƒƥǗƒ ƧƒƧǀ!ƒ Ɣơʅ ƨĂƞŏ Ǚ" :ǊǀĵƋǀ ĜǌđžĜǂơĐ ƥơĐ Ŏ5 Ƙư ǀ5 ÜƥƒƧ5ü! ǼƥĂǀơ Ɣʅǂk

Ǌǀơʅ ƨĂƞŏ Ǚ ǊǀĵƎ5 ǈĴĂǀĵĜǀ!ƒ ƻ!ĜƤŏ ƧƒƧǀ!ƒ ǈĴĐ ƯƧƽŏĂ ÜǈĴƋƬ!ƒ ĭĂƦ! Ǽǀʅkǂđž Ǽǀơ ƋƬǀĵĐ Ĭkđž Ďžŏǀʅ!ƒ

ĎžŏƱǀĵk! ŀŏǀơđž!ƒ ŀǀĵƞǀ! ƨĂƞŏ ǚ5 ǊŏǀƵĂ …ĈĜư ǀ!ƒĂ Ǌǀƽ!ƒ ǁ!Ʀ ĬǀƵ Ƨǀkʅƒ Ĝđžǂ ǈĴƶƠ!ƒ ǀƥđž ýǚƤ ǛƍŹ

ƘƒĈĜƬǀĵǗƒ ĎžĜƥĐ ǈĴĐ ƥƶǀ ĈĜǀĵǀ!Ĝǀ ŎƵƥkʅđž! ĜǌǀĵƵ ƧƥĜƬ!ƒ ƒ ŏƤƧk!ƒ ĈĜƹ!ƍ ŀđžƬĜƶ!ƒ ŀǀĵĜđžĐ Ŏ5 ŀŏǀĵǀǗƒ

ýƬǕƒ Ŏ5 ƘƧƥƬ ƘƒƧƒƧp ƔƞĂđžǀ ŎƵƥkʅđž! Ǽǀʅkǂđž Ǽǀơ ƔkƧk! ŀƬƤƧ!ƒ ƾ5Ă Ĝǌǀ ƟƧƬđž!ƒ

.[2]"ŀđžŏǀʅ

ƩĜʅđž!ƒ ɏǀĵkđžŏ ǊǀĵƎ5 ÜǈĴŏƶđž ŎǀĵĂǀĵĜƥ ĎžĜƱǀĵ ýƱ Ŏ5 ǼƥĂǀơ ƥƒƧ5Ǖƒ Ɣʅkǂƒ Ĝđž!ĜƠĂ ǊǀĵƎ5 ÜŀƞŏǀĵǀĵĜǀĂ

ƾĂǀơ!ƒ ǀĵƦǋ ƔŏkƧk ĜǌǀƱ Ŏ5 Ďk Ŏk!ƒ ŀŏǀĵĂǀĵĜǀ!ƒ ƳĜưĂǕƒ ýŏƥƶk ĂĐ Ƨŏŏƺk Ďk ýĜơ Ŏ5 ƾĂǀơ!ƒ ǀĵƦǌǀ

ƒƦǌǀ ƩĜʅđž!ƒ ƨĂƞŏ Ǚ ǊǀĵƎ5 ƒ ƤƬ! ǼŏkƒƦ ǼŏǀĵĂǀĵĜƥ ƭƨǂƧđž ƧƒƧǀ!ƒ ƔkƧ ŀ!Ĝơ Ŏ5Ă ÜǼǀĵĂǀĵĜƥ ĜǌǀĜʅkǂƒĂ

.[3]ŎƶƞƧ!ƒ ƧǺǕƒ ĂƦ ǈĴĂǀĵĜǀ!ƒ ĜǋƥƥơŏŎk!ƒ ŀƵĂƧƬđž!ƒ ŀǀŏʅĂ!Ĝǀ Ǜƍ ŎǀĵĂǀĵĜǀ!ƒ ƨǂƧđž!ƒ

ǀǀǀƐƍǀǀƐ ƼĭƾƟŀ :ƘǀǀƑkǀǀƐ ƥƥĜĎžǀǀƐ

Ĭkơ ÜŀƒƥƶƒƐ ƾŏǀơk ŀŏƧƒƥǗƒ ƘƒƧƒƧǀ!ƒ Ŏ5 ŀŏƶƞƧ!ƒ ĎƥƵ Ďƥǀđž ƘĜƹĂʅđž ĎǋĐĂ ƨƧǀĐ ǈĴđž

ǀƧǂ5 Ƙŏǀ! ƥǀ!Ă ÜŀǀǀǀđžƒƐĂ ŀ!ƒƥƶǀ! ŀƽ!ĜƤđž!ƒ ǀƧƠƤ!ƒ ýƑĜʅđž!ƒ ǈĴđž ŀŏƶƞƧ!ƒ Ƨǀkƶk Ʀƍ ÜƥƒƧ5Ǖƒ ǈĴƑđžƠŏ

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[1] ýƥƵ ĜŏǀƵ 138/ 1982Ü ŀǀǀƞđž ŀǀĜǀǀĵ ǈĴŏđžĜơđž!ƒ ÜǈĴŏŏǀĵƥƧǕƒ Ü1982 ŀǀĵʅ! Ü(3) ƥƥƶ!ƒ Ü ƒ 1360.

[2] ýƥƵ ĜŏǀƵ ÜŀŏǀĵƥƧĐ Ü160 ŀǀĵʅ! Ü1985 ŀǀǀƞđž ŀǀĜǀǀĵ ǈĴŏđžĜơđž!ƒ ÜǈĴŏŏǀĵƥƧǕƒ ƥƶ!ƒ (2)Ü ŀǀĵʅ! Ü1986 Ü ƒ 508.

ĂƒǀĵƱƧ ƧƒƧǀ!ƒ ƘƒƧƒƧp :ŀŏĜk!ƒ ýƥƵ ĜŏǀƵ ƧƒƧp :486/2012 ÜýƥƵ ĜŏǀƵ ƧƒƧp :ƥƧđž 254/2012.

[3] ƥ!ĜƤ ǀĵƧĜđžʅ ÜŎǀƵƨ!ƒ ÜƧƒƧǀ!ƒ ƧƒƥǗƒ ĭ ǈĴŏǀ ŀŏƧƱǀĵ!ƒ ĂƒǀǀŏƠk!ƒĂ ƧƒƥǗƒ ƾ5Ʌ!ƒ ŀǀǀƬƧÜ ƵĜđžǈĴ Ü1999 ĎžÜ ƒ 203.

[illegible] .(1)"…. [illegible]

[illegible]

[illegible] .(2) [illegible]

[illegible] .(3) [illegible] Demolombe [illegible]

(1) [illegible] 48 [illegible] 6751 [illegible] 2010/1/16 [illegible] 1712 [illegible] 59 [illegible] 1993/11/4 [illegible] 44 [illegible] 3 [illegible] 139 [illegible] 1050 [illegible] 7 [illegible] 1965/2/21 [illegible] (11) [illegible] (3) [illegible] 17.

(2) [illegible] 204 [illegible] 259 [illegible] 28.

(3) [illegible] 40.

[illegible] .[1]

[illegible] .[2]

[illegible] .[3]

[illegible] :

[illegible] .[4]

[1] [illegible] Droit civil. Ler ed. 1845.p. ch .demolombe. cours de [illegible] .37 [illegible] .37 [illegible]

[2] [illegible] .182 [illegible]

[3] [illegible] .508 [illegible]

[4] [illegible] .282 [illegible] 1996 [illegible]

ƘfƧfƧl!f ǈdž ǴǋǰƧŏƺĂ ƗŏpƧk!fĂ ýdžƶ!fĂ ƻŏƱĂk!f ƥƵfĂp ƴưĂĂ ƗdžǴƶ!f ƾ5fƧdž!f ǄŏƱǉk5

ĂǄ Ƨŏƺk Ǵǌ! ƨĂƞŏ ǘ5 ÜýhlkƖdž!fĂ ƧưǴơǏ! ƗhƖǉ!Ǵh Ǚǫ ƖƧfƥǗf ǊƖƧǴdžk ǈǄ ǈǂdžŏ Ǚ ƗŏdžŏƱǉk!f

Ǵdž ƧǴhkƵf Ǒ!Ǵk!ǴhĂ ǴǌkǴƱǏƖ ƥĂƥơ ƨĂǴƞk ƗǏƑǴƱ Ƙơk ÜĬưdž ǈdžƨ! ƗhƖǉ!Ǵh ƥƵfĂl!f ǉƦǋ ýŏƥƶk

.[1]ǈǴdžƨ!f ƚŏơ ǈdž ƒ ǴƮkƤǗf ƔŏƶhƗhŏƶdž ǴǌǉǰhƘfƧfƧp ǈdž ǴǌǉƵ ƧƥƮŏ

ǈdž (167) ƖƥǴdž!f ƒ ǉ ǈdž ƥǴ5kƖŏ ...." :ǊǉǰhƾǴŏƖ!f fƦǋ Ǒ5 ǴǏƶ!f ýƥƶ!f Ɨdžǂơdž Ƙưp ƥpĂ

ýlŏ ĭƦ!f ƻǉƮdž!f Ƨŏƺ ƻƱĂdž!f ýƨƵ ǈǫ -Ǌǉdž (161) ƖƥǴdž!f ýŏƥƶk ýhplǇ ƗŏǉƥǏ!f ƗdžƥƤ!f ǄǴƱǉ

ÜƧŏƨĂ!f ǴǌǉŏƶŏƗŏƛǘƛ Ɨǉƞ! ƔŏƖǉk ĬǏƵ ǴǴǉh ƖƧfƨĂ!f ýŏǂĂ ǈdž ƧfƧlh Ǆkŏ ȥƧǴǉŏƥ ǈŏƛǘƛ ǈƵ ǊhkfƧ

ǴǴǉh ǴǌŏƼ ƧƱǉ!f ƳǴƱkƖŏ Ǚ Ǵdždž ĂǄ ƗǉŏƶdžƗdžǌkh ƾǏƶkk ǉƥư ƗdžƥlǏ!f ăĂǂƬ!f ǈĂǂk ǈǄ ǈŏh ƾƧ5 Ǚ

ǈŏk!Ǵơ!f ýdžƬŏ ƚŏơh ǊpǘƱǫ ĬǏƵ ĭƧƞŏ ĂǋĂ ǴǏƱdž ƥƧĂ ƥp ƒ ǉ!f ǈǄ Ʀǫ ÜƗǉŏƶdž Ɨdžǌk ĬǏƵ

Ǌǉdž (143) ƖƥǴdž!f Ǆǂơ ƾŏhƱk ƔƞĂǄ ƗŏǉƥǏ!f ƗdžƥƤ!f ǄǴƱǉ ǈdž (161) ƖƥǴdž!f ýŏƥƶk ǈǫ ...Ǵƶdž

ǴǴǉh ǴǌŏƼ ƧƱǉ!f ƳǴƱkƖŏ ǙĂ ǄǋǉƥưƗdžƥlǏ!f ăĂǂƬ!Ǵh ƒ kƤŏ Ǵdžŏ5 ǈŏ5ǉƮdž!f Ƨŏƺ ǈŏ5ƱĂdž!f ĬǏƵ

Ǆǂơ ǈƎ5 Ǵǌ! ƯƧƶkŏ Ǆ! ýŏƥƶk!f fƦǋ ǈǄ Ǵdžh5 ƗǉŏƶdžǄǌkh ƗǏƶkdž!f ăĂǂƬ!f ǴdžǄ ÜƗǉŏƶdž Ǆǌk ĬǏƵ

.[2]"ǴǌŏǏƵ ĭƧƖŏ ĭƦ!f Ăǋ ƗŏǉƥǏ!f ƗdžƥƤ!f ǄǴƱǉ ǈdž (157) ƖƥǴdž!f

ǈƎ5 Ɨŏƶƞ Ƨ!f ǄƥƵ ƘfƧƧhdž ǈdž ƧƧhdžǂ ƒ ǴƮkƤǗf ƥƵfĂp ǄfƧkơf ǈǴŏh ǈdž ǴǉŏǌǉŏŏƔ ǈf ƥƶhĂ

Ǒk!f ǁǏkĂ ƥfƧ5ǘ! ǴpĂlơ ƔkƧk Ǒk!f ƘfƧfƧl!f ǈŏh ƨŏŏdžk!f ǄĂƨ! ăƧŏ ƾǴŏƖ!f fƦǋ Ǒ5 Ưƶh!f

ÜǴŏƶƞƧ ȥƧƛǄ ĭƥƧ5!f ƧfƧl!f ǈdžưƘ ǈǄ ƖƧfƥǘ! ƨĂƞŏ Ĭ!ĂǗf Ɨ!Ǵơ!f Ǒ55 .ƘǴdžfƨk!f ǄǌŏǏƵ ƔkƧk

Ǚǫ .ƘǴdžfƨk!fĂ ƘǴhƞfĂ ƥfƧ5Ǘf ĬǏƵ ƯƧ5ŏ ǈǄ ƧfƧl!f ǈǂƬ ǈdž ǈǴǂ fƦǫ ǁ!Ʀ ǴǌŏǏƵ ƴǉkdžŏ ǈŏơ Ǒ5

Ǵdž Ǵh!Ǵƺ ƗŏƧfƥǗf ƘfƧfƧl!f ǈǄ ǈdž ǴpǘƱǉf ÜƗŏǏdžƶ!f ƗŏơǴǉ!f ǈdž ǊǉŏhƱk ƔƶƮŏ ƥp ǇǌǉǏ!f fƦǋ ǈǄ

.117 ƒ ÜƾhǴƖ ýƞƧdž ÜĭƧfƥǗf ƧfƧl!f ÜƖƥƵǴƖdž ǄƧǂǄ[1]

Ü1972 ƗǉƖ! Ü(2) ƥƶ!f ÜǈŏŏǉƥƧǗf ǈŏdžǴơdž!f ƗhǴlǉ ƗǏƞdž Ü1971 ƗǉƖ! Ü163 ǄpƧ ÜƗŏǉƥƧǄ ǴǏƵ ýƥƵ ƧfƧp[2]
.334 ƒ

Ƚ5!ƓƤdž ƓnjöŴƵ ƔƙƧƙö ƚǀƶƞƧ!ƒ ǋǅ ǏŴƵ ǀĂǕƵ ÜƘƿĂ!ƒ Ʃ5ǉ Ŏ5 ƘƓdžƒƨƙ!ƒ ƔƙƧƙĂ ƑƿĂlơ ƐƬǉƙ

.[1]ƑlƕƓƪ ƓǉƧƬǅ Ɠdžǂ ǋƓdžƨ!ƒ ƚöơ ǋdž ƒ ƓƮƙƤǕƒ ƥƵƒĂl!

ǋƧƓldž!ƒ ǐƧƒƥǕƒ ƇƓưl!ƒ ƧlƙƪƒƥƜ ÜǐƧƒƥǕƒ ƧƒƧl!ƒ ƚöƶƞƧ ǏŴƵ ƔƙƧƙdž!ƒ Ƈƒƨƞ!ƓƜ ƽŴƶƙö ƓdžöƜĂ

Ŏ5 ǐƧƒƥǕƒ ƇƓưl!ƒ ƚdžǂơdž ƘƯƿ ƥƜ ÜŎƶƞƧ ƧƛƓƜ ǀƧƥƓƮ!ƒ ƘƒƧƒƧl!ƒ ǋǕƱƜ ǏŴƵ ŎǉƥƧǕƒĂ

ǋdž ƗƧƓƙƵƒ ǊƜĂƶ5dž ǐƧƓƪ!ƒĂ ....ŎƵƥdž!ƒ ǉơdž ǏŴƵ ǅƪƧ!ƒ ƯƧ5Ɯ ƩŴƞdž!ƒ ƧƒƧƿ ..." :ǋƛƜ ƧƮdž

ǋĂǉƓlǃ! Ƒ5!ƓƤdž ƧƜƙƶö 1947 Ƚǉƪ ĂöƓdž 8 Ŏ5 ǕƺƧƥƮö ǅ! ƧƒƧl!ƒ ƒƦǎ ǋǅ ǉdž 1946 Ƚǉƪ ĂöƓdž ǉĂǅ

.[2] "...ǉǆƓƺ!ƺ ǋöƶƙöĂ

ǐƧƒƥǕƒ ƧƒƧl!ƒ ǅƒƥƶǉƓƜ ƘƯƿ ƓnjǉǅǉƜ ÜǊnjǉ!ƒ ƘƒƦƜ ǋƥƧǕƒ Ŏ5 ƓǕƶ!ƒ ǉƥƶ!ƒ ƚdžǂơdž ƘƦƤǅ ƥƿĂ

Ŏ5 ƘƯƿ ƥƜ5 .ƚöƧƒƥǕƒ ƘƒƧƒƧl!ƒ ƚöƶƞƧ ǅƥƵ ǅƥƜdž ǀƧƒƥǕƒ ƓnjöƶƘ5!ƓƤ Ŏƙ!ƒ ƘǕƓơ!ƒ ǕƶƜ Ŏ5

ǋƵ ƇƓǉƺƙƪǕ! ǇƓ5ƥ!ƒ ƧöƨĂ Ǐ!ƺ ǅƓƶ!ƒ ƔƑƓǉ!ƒ Ǌdžƥƿ ǐƦ!ƒ ƔöƪǉƙƙƒƦƺ ....-1" :ǊǉƛƜ ƓnjǉǄ ǅǂơ

ƥƵƓlƙ!ƒ ǋĂǉƓƿ ǉǕ Ŏ5 ƒƧƥƮ ƥƿ ƚöǂŴdž!ƒ ǀƥƒƧǕƓƜ ǋƧƙƿƒ ǐƦ!ƒ ƇƓǉƺƙǕƒ ƧƒƧƿĂ ŎƵƥƙƪdž!ƒ ƘƓdžƥƤ

ƔƞĂƙöĂ ŎƵƥƙƪdž!ƒ ƚ!ƓơĂ ǏŴƵ ƽƜƮǉö ǐƦ!ƒ Ăǉǉ ǋǉƓlǃ!ƒ ƒƦǎ ǋǅ5 1959 Ƚǉƪ! 29 ǅƿƧ ǐƧǂƪƶ!ƒ

ǋdž ǐƧƪö ǊǉǅŴ ǏŴƵ ƒ ǉ ƥƿ ƇƓǉƺƙǕƒ ƧƒƧƿ ǋĂǂ ƓdžǅĄ ...ǊdžƓǂơǕƗ Ƒl5Ă ƚöƥƵƓlƙ!ƒ ǊƿĂlơ ƚöĂƪƙ

ǋǅ5 ÜǊǊƜ ǋƶƮ!ƒ ǅƥƶ! ƑöƶƮƿ ƠƜƮǅ ƥƿ ƧƒƧl!ƒ ƒƦǎ ǋǅĂ ƧĂǂƦdž!ƒ ǋĂǉƓlǃ!ƒ ǅƓǂơǅ ƦƓ5ǉ! ƽƜƓƪ ƳöƧƓƙ

ƧƒƥƮƺ ƚöơǕƮ ǕǕƮǅ ǁǉdžƙ Ǖ ƚöƧƒƥǕƒ ƚƮǉƪ!ƒ ǋǕ ǋĂǉƓlǃ!ƒ ƒƦǎ ǅƓǂơǅ ƽöƜƮƙ ǋĂƥ ǉĂơö Ǖ ǁ!Ʀ

ƧƜƙƶö ǊƞĂ!ƒ ƒƦǎ ǏŴƵ ƧƒƧl!ƒ ƧƒƥƮƺ ǋǅ5 ǊöǉƵĂ ....ŎƶƞƧ ƧƛƓƜ ƚdžƥƤ!ƒ ƇƓnjǉƓƛƜ ƚöƧƒƥƺ ƘƒƧƒƧƿ

.[3] "...ǅƒƥƶǉǕƒ ƞƧƥ Ǐ!ƺ ƚöƶƞƧ!ƒ ƚöơ ǋdž ǊƜ ƧƥơǉƙǕ ǋĂǉƓlǃ! ƚdžöƪƞ Ƚ5!ƓƤdž

---

(1) ƥöƨdž!ƒ ǉƦǉ ǉĂơ ÜǐƔƪ!ƒ ǐƧǉǉ ÜŎǂƮƓǅ!ƒ ƧdžƵ :ƧƵǉƒ ÜǐƧƒƥǕƒ ƇƓưl!ƒ ǐ Ü ƒ 282.

(2) ǅǂơ ƚdžǂơdž ƧƒƧƿ ÜǐƧƒƥǕƒ ƇƓưl!ƒ ǅƿƧ 1817 ÜƳöƧƓƙ 1950/1/17 ÜƚƪƓǂƵ ƧƒƧl!ƒ ÜǐƧƒƥǕƒ ƚƮƶƤ ƞƧdž ƔƓƪ

.652 ƒ

(3) ƧƒƧƿ ƔƥƵ ƓǕƥƤ ÜƚöƥƿƧǕƒ ƘƓƮƓƪdž ƚƶǉƪ! ÜƚöƥƿƧǕƒ ƚǉƶǉƓƮǉǕƒ Ü(1) ƥƥƶ!ƒ Ü1969 Ƚǉƪ! Ü72 ǅƿƧ Ü1970

.67 ƒ

Ĭǆǂǁǁǝ ƘƟǦǅǁǁǝ

ǈǔƀƐǭǕƐ ǃƐƀƐƀǂǁƐ ǈǔýǛƀ !ǭƳ ćǭǦǅ ĂǂƳ ǭƀƚ ĬƚǁƐ ǃƐƀǂǆǂƚƨǕƐ

ǅǦǂơǖ! Ǧl5Ă ƘƒCǦǈǈǗƒ ǦǌǘǁƵ ƊƧƱ Ǒǩ!ƒ ƏƀǦǅǅ!ƒ ǇǅƚǒƨƒƀǗƒ Ƙƒƨƒƨl!ƒ Ǒ5 ƚǒƶƞƧ!ƒ ǅƀƵ ƊƀǅǅǓ

Ǘ[1]ƚǅǌǅ ƚǑǈĂǈǦp ƏƀǦǅǅ ƘƒCǦǈǈǗƒ ǈǌǌ ýǂƬǩ ƚǒơǈ ǗĭƨƒƀǗƒ CǦư l!ƒ Ǧǌǈ CǦƞ Ǒǩ!ƒ ǋǒǂǦư l!ƒ

ƨĂƞǒ Ǉǂ!Ă ǗƚǒƶƞƧ ƚǒƨƒƀǫ Ƙƒƨƒƨp ƨƀƬǩ ǇǅýƒĂơǕƒ ǅƲƶǅ Ǒ5 ǃƨƒƀǘ! ƨĂƞǒ Ǘ ǋǇǅ ýƬǗǦ5

ƚ!Ǧơ ýǂǈ ƱǒơǩƚƬǦP ƻĂƨƲ! ǁ!ƦĂ ǗƘƒƨƒƨl!ƒ ǈǌǌ ýǅǅ ƨƀƬǩ ǇǅýƒĂơǕƒ Ưƶǈ Ǒ5 ǃƨƒƀǘ!

ǅƀƵ ƊƀǅǅǓ! ƘƒCǦǈǈǗƒ Ưƶǈ ýĂǁ! ǇǦǒƨƒƀǗƒ CǦư l!ƒĂ ǋl5!ƒ ƧƱư ƒ ƀl5 ǗƘǗǦơ!ƒ ǈǌǌ ǇǅǓ

.[2]ǈƨĂƀƬ ǭǒƨǦǩ ƫǈǈǒ! Ǒƶƞƨ ƨǅǅ ĭƨƒƀǗƒ ƨƒƨl!ƒ ƫǒǈƱǩ ƨĂƞǒ5 ǗƚǒƨƒƀǗƒ Ƙƒƨƒƨl!ƒ ƚǒƶƞƨ

ǋǇǅ ǇǅǓ ǅƩƨ!ƒ ĬǁƵ ǦǈǈƧ5 Ǒƽ5 ǗǇƀƧǕƒĂ ƧƬǅĂ ǦǈǈƧ5 Ǒ5 ǖǅǅǅ ǁ!Ʀ! ƀǌƬǒ ĭƨƒƀǗƒ ǋl5!ƒĂ

ǈǌǌ ǃƀơ ǇǅǓ ƻ5P ƀƶǈ ǦǅǒƵ ǋǇǅ Ǘǫ CǦǈǈǗƒ ĭǅ ƊƀǅǅǓ!ƒ ƒǌǌ ǑƱƶǒ ǅ!Ă ƨǅǕƒ ƚǒƒƀǈ Ǒ5 ǦǅƨǦƬ ǇǦǂ

Ǘ[3]ƚǒƨƒƀǗƒ Ƙƒƨƒƨl!ƒ Ǒ5 ƚǒƶƞƧ!ƒ ǅƀƵ ƊƀǅǅǓ ĬǁƵ ƘƒCǦǈǈǗƒ ǇǅǓ ƀǒƀƶ!ƒ ýĂǈlǈ ƦPǅĂ ƚǅƒƨƬ!ƒ

ǁ!ƦǂĂ ǗƚǒƨƒƀǗƒ Ƙƒƨƒƨl!ƒ Ǒ5 ƚǒƶƞƧ!ƒ ǃƨǦƞǫ ǦǌǅǦǂơǅ ǇǅǓ ƀǒƀƶ!ƒ Ǒ5 ǦǒǁƵ!ƒ ýƀƶ!ƒ ƚǅǂơǅ ƘƨpĂ

ǗƚǒƨƒƀǗƒ Ƙƒƨƒƨl!ƒ Ǒ5 ƚǒƶƞƧ!ƒ ǃƨǦƞǫ Ĭ!ǫ ǃƨǒǅǂ ǅǦǂơǅ Ǒ5 ƔǋƦ ƚǒơ ƧƬǅ Ǒ5 ĭƨƒƀǗƒ CǦư l!ƒ

ƫĂlơ!ƒ ĬǁƵ ƨǅƋǩ Ǒǩ!ƒ Ƙƒƨƒƨlǁ! ƚǈǈǈ!Ǧǈ Ǘǫ ǋǒ5 ƀƀƬǩǒ ǅ! ǋǇǅ Ǘǫ ǃƨƒƀǗƒ ǅƨǁǒ ǋǈǅǈ ǋǋǦƞǩƒ ǇǦǂĂ

ǅƀƵ ƊƀǅǅǓǈ ǦǈǦǈǅ ǦǋƧǈǩƶǒ ǇǅǓ ǇĂƀ ǦǋƨǒƞǒǋǇ5 ƫĂlơ ĂǅǦǒƒƨǅ ǅǌǈǈǂǩ Ǒǩ!ƒ ǁǁǩ ǦǅǅǓ ǗƚǈǈǩǂǅǓ!ƒ

.ƚǒƨƒƀǗƒ Ƙƒƨƒƨl!ƒ ƚǒƶƞƨ

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(1) ƟǖƬ ǇǑƀ!ƒ Ǘĭƨ Ă5 ǅǦƲǈ!ƒ ǑǈĂǈǦl!ƒ ƚƽǑƲĂǁ! ƚǅǦƶ!ƒ ƚǒ!Ăƀ!ƒ ƨƒƀ ƚǒǂǈǈǈ!ƒ ǗƚǒǈƧƶ!ƒ ǗǃƧǌǦǖ l!ƒ Ǘ1991 ƒ 150.
ǦǈƧƬ ǗƘǦǅǖǈ!ƒ ƦǦƽǈ Ƙƒƨƒƨl!ƒ ƚǒƨƒƀǗƒ ǗĭƨƒƀǗƒ ǅƞƨǅ ýƞƧǅ ǈǦǈƫǗ ƒ 247.

(2) ǅǌǈǅ: ǈǦǅǒǁ ǇǦǅǒƱ!ƒ ĂĭƚǅƨƱ!ƒ ƚǒƧƲǈ!ƒ ƚǅǦƶƵ!ƒ Ƙƒƨƒƨlǁ! ƚǒƨƒƀǗƒ ǗƫǈǦǈ ƒ 519. ƚǅǒƶƱ ƻƧƞ!ƒ Ǘ2 ǇĂǈǦl!ƒ
ƒ ĭƨƒƀǗƒ ýƞƧǅ ǈǦǈƫǗ ƒ 492 .ƵǈƀƨǦl!ƒ ƚǒýǁP ƚǒƧƲǈ ǈơƔ Ƙƒƨƒƨl!ƒ ǗƚǒƨƒƀǗƒ Ǘ1964 ǗǃƧǌǦl!ƒ
ƒ P.263 ƀ!ǦP ǗǑǈƵƨ!ƒ ƨƒƨl!ƒ ǗĭƨƒƀǗƒ ýƞƧǅ ǈǦǈƫǗ ƒ 207 ĂǅǦ ǦǌƀƶǈǦǅ.

(3) ǈǦǅǒƱ ǇǦǅǒƱ!ƒ ǗĭƨƒƀǗƒ ǗƚǒƨƒƀǗƒ ƘƨƒƨlǁƧ ƚǅǦƶ!ƒ ƚǒƧƲǈ ýƞƧǅ ǈǦǈƫǗ ƒ 552.

(1) .248

:ŎƙŬƒ ǍơǉƗƒ ĬƗƵ ƔƗƱƽƗƒ ƒƦǌ ŧƬƥƓǉƽƮ ŧơƓƮƗƒ ƊǍƗŏƪǍ

ƊǍǌƽƑŝƗƗ ĬƴƜƥƗƐ ƥƙŬƐ ƥĭƥŝ Ĭʓ ƱƥƪƊƗƐ ƕĭƥƟ :üǌŬƐ ƱƥƸƗƐ

ŧőƶƞƧ Ɗƥƶ ƊƥƕƊ ĬƗƵ ƘƥŧƊ ƥƥ ƓǌǉƗƮ ăƧŏ ýǍƥƗƒ ŧőƮƗƓƩ Ŏ5 ƧőƙƓƪƥƗƒ ƒ ǍƮǉ ĬƗƵ ƴƗƱƽƗƒ

ƓǌŏƗƵ ƒ ǉƗƒ ýǚƤ ǇǇƽ ǁƗƦǍ ÜŐƶƞƧƗƒ ƧƛŬƒ ƘƒƦ ǇǇŏǉƒǍƗƗƒ ƧƒƥƮƍ ƳƧƬƽƗƗ ƘơƓƊ ǁƗƦƮǍ ÜǇǇŏǉƒǍƗƗƒ

.[1]ŧőƶƞƧƗƒ Ɗƥƕƽ ĬƗƵ ƇƓǉƙƪŬƒ ƘŬƓơ ƊƥƥƊ ǇǇƽ ƧƕƙƶƙŧƗƓơƗƒ ǉƦǌǍ ÜǇǇǍǉƓƗƗƒ Ŏ5

ƧƮƽ ŧŏƧǍǌƽƞ ƧǍƙƪƥ ƒ ǉ ŧŏơ ǁƗƦ ĬƗƵ ǇƥƧǕƒǍ ƧƮƽ ǇǇƽ ýŧ Ŏ5 ƧǍƙƪƥƗƒ ƒ ǉ ƥƗ5

:ƝƝǉƊ ĬƗƵ (223) ǉƥƓƽƗƒ Ŏ5 ǁƗƦǍ 2013 ƊƓƵƗ ŧőƮƧƵƗƒ

(Ŭ ƙƪƧ ĭ ƊƓŧơƊ ǇǇŏǉƒǍƗƗƒ ǍƗŏ ƓƽƗ Ŭƥ ǇǇƽ ƴƗŏ ƓƽƗ ơǌŏƧƓƙ ýƽƵƗƒ ƓǌƮ ǍŬ ƔƙƧƙŏƗƵ ƓǌŏƗƵ ƧƛƊ ƓƽŏƗ5 ƴƥǍ ƓǌƗƮƥ

ŧőƮƗƩƊ ŧƗ5ƒǍƽƮ ǁƗƦ ƸǚƤ ĬƗƵ ǇǇǍǉƓƗƗƒ Ŏ5 ƒ ǉƗƒ ŧőƑƓǉƞƗƒ ƥƒǍƽƗƒ ƧŏƩ Ŏ5 ƨǍƞŏ ǁƗƦ ƴƽǍ

.[2](ƔƵƬƗƒ ƩƗƞƽ ƇƓƯƵƊ

:ŎƗŏ ƓƽƗ ĬƗƵ (128) ǉƥƓƽƗƒ Ŏ5 2011 ƊƓƵƗ ýƥƵƽƗƒ ŎǉƥƧǕƒ ƧǍƙƪƥƗƒ ƒ ǉ ǁƗƦŧǍ

ĬƗƵ ƘƓŏƧơƗƒǍ ƨǍƗơƗƒ ƊőƯǉƙƗ ƧǍƙƪƥƗƒ ƒƦǌ ƔƞǍƽƮ ƧƥƮƙ ŎƙƗƒ ǇǇŏǉƒǍƗƗƒ ƧƛƊƙ ǇǇƊ ƨǍƞŏ Ŭ -1

.ƓǌƙƓŏƪƓƪƊ ƩƽƙǍƊ ƨǍƗơƗƒ ǉƦǌ ƧǌǍƞ

ŧőǉƥƧǕƒ ŧŧƗƽƽƗƒ Ŏ5 ƓǌƮ ýǍƽƵƗƒ ŧőƵŏƧƬƙƗƒ ýƓƽƵǕƒ ƧƑƓƪǍ ŧƽƯǉǕƒǍ ǇǇŏǉƒǍƗƗƒ ƴŏƽƞ ǇǇƳ -2

ǉƓƯƙƗƽƮ ƧƥƮŏ ƴŏƧƬƙƮ ýƥƵƙ ǍƊ ĬʓƗƙ ǇǇƊ ĬƗƳ ǉƦ5Ɠǉ ĬƗƮƙ ƧǍƙƪƥƗƒ ƒƦǌ ƦƓ5ǉ ƥǉƵ ŧőƽƬƓǌƗƒ

.ƘƒǍǉƪ ŧǚƛ ƓǌƓƮƥƊ ǉƥƽ ýǚƤ ǁƗƦǍ

ŧőƶƞƧ ƨŏƞƙ ƓǌǉƝ ǍƳ ǇǇŏǉƒǍƗƗƒ ƦƓ5ǉ ĬƗƳ ǍƵƥƙ ƓǌǉƒƗ ƴƗƽ ƧŧƦƗƒ ŧ5ƗƓƪ ƒ ǍƮǉƗƒ ǉƦǌ ǇǇƊ ƱơǚƽƗƒǍ

ƘŬƓơ ƊƥƥƊ ǇǇƽ ŧőƶƞƧƗƒ ĬƗƵ ŎƵŏƧƬƙƗƒ ƒ ǉƗƒ ŧƗƓơ ǇǇƒ ĬƗƳ ƘƓƽǚƪƗƒ ƧƓƬƊǍ Ü[3]ǇǇŏǉƒǍƗƗƒ

ƇƓǉƙƪŬƒ ƒƦǌƮ ƦƤǕƒ ĬƗƳ ƘƥƊ ŧƑƧƓƱƗƒǍ ŧơƗƽƗƒ ŧƞƓơƗƒ ǇǇǕ ÝŧőƶƞƧƗƒ ƥƵ ƊƥƕƽƗ ĬƗƵ ƇƓǉƙƪŬƒ

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[1] ƴƞƧƽƗƒ ƪƙƕƓƪ ü ƒ 250 .

[2] ǉƥƓƽƗƒ (223) ǇǇƽ ƧǍƙƪƥ ŧŏƧǍǌƽƞ ƧƮƽ ŧőƮƧƵƗƒ ƊƓƵƗ 2013 .

[3] ŎơƽƗ ǇǇŏƥƗƒ ÜŎƪŏƗƒ ƇƓƽƯƥƕ ǍƊǉƯƵƙƗǍ Ŏ5 ǇǇǍǉƓƗƗƒ ǍƥƬƗƒ Ü ĭ ƧƥƥƗ ŎƗơƗƒ ŧőƥƒǍƗƗƒ ÜƧƶƒǍǍ Ü1999Ɗ ü ƒ 88.

[illegible].[1]

[illegible].

[illegible]

[illegible].[2]

[illegible].[3] [illegible]

(1) [illegible] . 251

(2) [illegible] .345 [illegible] .252

(3) [illegible] .252

[illegible] [1]

[illegible]

[illegible]

[illegible] [2]

(1) [illegible] .612

(2) [illegible] .254

[illegible] [1] [illegible]

[illegible] [2]

[illegible] [3]

---

(1) [illegible] 336 [illegible] 520 [illegible] 253 [illegible]

(2) [illegible] 199 [illegible] 519 [illegible]

(3) [illegible] 254 [illegible]

[illegible] .[1]

[illegible]:

1. [illegible] .[2]

2. [illegible] .[3]

3. [illegible] .[4]

(1) [illegible] 199.

(2) [illegible] 520.

(3) [illegible] 83.

(4) [illegible] 345.

[illegible]

[illegible] (1) [illegible]

[illegible] (2) [illegible]

[illegible] (Auby) [illegible]

[illegible] (3) [illegible]

[illegible]

---

(1) [illegible] .8 [illegible] .141 [illegible] .813 ،1988 [illegible]

(2) [illegible] .38 [illegible] ،2012 [illegible] .263 [illegible]

(3) .auby:op.cit,p48 j.m [illegible] (Auby) [illegible] .264 [illegible]

[illegible] (1) [illegible] (2) [illegible]

[illegible] (3) [illegible]

[illegible]

[illegible] (37) [illegible]

(1) [illegible] ص 218.
(2) [illegible] ص 245.
(3) [illegible] ص 265.

[illegible] "...[illegible][1]

[illegible].[2]

[illegible]

[illegible].[3]

[illegible]

[illegible]

[illegible]

---

(1) [illegible] (165) [illegible] 1951/4/26 [illegible]
[illegible] 1961-1946 [illegible] 963.

(2) [illegible] (237) [illegible] 1951/11/15 [illegible]
[illegible] 1961-1946 [illegible] 963.

(3) [illegible] 265.

[illegible] .[1][illegible]

[illegible]

[illegible] .[2]"[illegible]

[illegible] .[3]"[illegible]

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(1) [illegible] 142 [illegible] 1988/4119 [illegible] 766/3186 [illegible] 934.

(2) [illegible] 2231 [illegible] 1984/3/10 [illegible] 96 [illegible] 3 [illegible] 440.

(3) [illegible] 1993/63 [illegible] 35 [illegible] 2351.

[illegible]

(1) [illegible] 93/308 [illegible] 1995 [illegible] 2025.

(2) [illegible] 1999 [illegible] 4.

(3) [illegible] 143 [illegible] 7.

[illegible]

[illegible] .[1]

[illegible] .[2]

[illegible] .[3]

[illegible]

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(1) [illegible] .272 [illegible]

(2) [illegible] 5488 [illegible] 8 [illegible] 1956/2/22 [illegible] .226 [illegible] .272 [illegible]

(3) [illegible] 93/308 [illegible] 1994 [illegible] .2025 [illegible]

[illegible]

[illegible] (1) [illegible]

[illegible] (2) [illegible]

[illegible] (3) [illegible]

(1) [illegible] 345.

(2) [illegible] 9-10.

(3) [illegible] 275.

DžĂǂơdž!f ýĂŪf ƧƒƧl!f ƧĂþƮ ĬĬƵ ƘhƙƧƙ Ŏƙ!f ƚdžŏĬƪ!f Ƨŏƺ ƚŏǉĂǉĠl!f ƨǂƒƧdž!f ƴŏdžƞ ƳƨƵƨŏ .[1]"ǋƑĠƺ!Ǝ

ƧƒƧp ĊĠƺ!Ǝ ƧþĠƮ!f Džǂơ!f Ʀŏ5ǉǩ" :ǇǇ ƴŏƧƬƙ!fĂ ăĂƙ5!f Ŏdžƪl! ƚŏdžĂdžƶ!f ƚŏƶdžƞ!f ƘƙƼĎĂ

Ŏ5 ƧĂǂƦdž!f þŏƪ!f ƚŏlơĎĂ ǇǂŏĎž! ǋǇǂ ýƮ5!f ƧƒƧp ƧĠƙƵƒ ǋĬĬƵ ƔƙƧƙŏ ...ƚƱƧƬ!f Ɣŏlǉ ýƮ5

ƧĠĂc ǇǇ ǁ!Ʀ ǇĎ ƧĠƙƵĠ ƚƱƧƬ!f ƛƑŏnǉ ǋƙdžþƤ ƘƧdžƙƪƒ Ă! Ġnǉlơƙƪŏ ǇĠǂ Ŏƙ!f ƘƒĂǖƶ!fĂ ƘĠŏpƧƙ!f

.[2]"ýƮ5!f ƧƒƧp ĊĠƺ!Ǝ Džǂơ!f

ýþƶ!f ƚdžǂơdž ǇĂǉĠp ǇǇ (Ɣ/26) lþĠdž!f ƘƮǉ ƚŏơ ǉĠƞƙǕƒ ƒƦnǉ ŎǉþƧǕƒ ĊĠư l!f ƔǋǉƦĂ

Ǖ ĠŏƶƱp Ġnǉŏþ! DžĠlƙ ăĂƵþ ĭĎ Ŏ5 ƚdžǂơdž!f Džǂơ ǇĂǂŏ" :ǋǉĎ ĬĬƵ 1992 ƚǉƪ! (12) DžpƧ ĠŏĬƶ!f

ǕĠnǉŏ5 ƧþƮ Ŏƙ!f lƧĂƮ!Ġ ǉƦŏ5ǉǩ ƔƞĂƙŏĂ ƽƧƱ!f ǇǇ ƽŏƧƱ ĭǁ ƚƶƞƒƧdž ĂĎ ƯƒƧƙƵƒ ĭĎ ýǉlŏ

ƚŏǉĂǉĠl!f ƘĠ5ƧƮƙ!fĂ ƘƒĈƒƧƞǕƒ ƴŏdžƞ þƶƙ5 ăĂƵþ!f ƳĂưĂdž ĭƧƒþǕƒ ƧƒƧl!f ĊĠƺ!ǫ ǇǇư ƙ ƒƦǫĂ

."ƧƒƧl!f ǁ!Ʀ ƧĂþƮ ơŏƧĠƙ ǇǇ lĠƺĬdž ƧƒƧl!f ǁ!Ʀ ƔƞĂdž ƘdžƙŎƙ!f ƚŏƧƒþǕƒĂ

ĊƒƧƨĂ!f ƩŏƑƧ ǇǇ ƧdžǕƒ ƧĂþƮ þƧƞdž" :ǋǉǂ ĠŏĬƶ!f ýþƶ!f ƚdžǂơdž ƘưƤ ǁ!Ʀ! ǺlŏƱƙĂ

Ɣƞ Ăƙŏ ýĬ ƧƒƧlĬ! ǾƦŏ5ǉǩ þƶŏ Ǖ ĠŏĬƶ!f ýþƶ!f ƚdžǂơdž ƧƒƧl! ǾƦŏ5ǉǩ ǋƙ5ŏƲĂ Ĭ!ǫ ŎƵþƙƪdž!f lþĠƵǎ

ǋƑĠƺ!Ǝ DžĂǂơdž!f ƧƒƧl!f ǇĠǂĂ ǕǋǇ DžĂǂơdž!f ƨǂƧdž ĊĠǉǂ lþĠƵǫĂ ŎĬƶ5!f Ʀŏ5ǉǩ!f ƴư Ădž ƧƒƧl!f ƴưĂ

ǁ!Ʀ DžĠŏl!f DžþƵ ƧƙƵƒ ǕǫĂ ƧĂþƮ ƘpĂ ǇǇ ƚŏĬƶ5 ƚ!ƒƨǫ ŎƺĬdž!f ƧƒƧl!f ƚ!ƒƨǫ ƚŏơ Ʊp ƧþƮŏ Dž!

.[3]"ƚdžǂơdž!f ƧƒƧp Ʀŏ5ǉǩ ǇƵ ǾƵĠǉƙdžƒ

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[1] ƧǕǉƒ: ƩdžƬ ŎǉƺƧdž ǕŎĬƵ ǕƘƒƧƒƧl!f ƘƒƧƒƧl!f ǕƚŏdžŏǕǉƙ!f ǕƨƙĠƪ ƴƞƧdž ǕƨhĠƪ ǕƨƦ24 ĠnǉdžǂơŎ ăĂƵþ!f DžpƧ Ǖ1202 ƚǉƪ! ǕƨƙĠƪ f .721 Ǖ1952/12/23 Ǖƨ6 f

[2] ăĂƙ5 ƻĬdž DžpƧ Ǖ932/2/22 ƚƪĬƞ Ǖ1982/11/17 ƚƵĂdžƞdž ƏþĠdž ǇŏƙǉƪƬ!f Ǖ37 Ǖ38 DþhdžĎ DžpƧ Ǖ33 f .77

[3] ýþƵ ĠŏĬƵ DžpƧ Ǖ1973/76 ƚĬƞdž ƚhĠlǉ ǕǇŏdžĠơdž!f Ǖ1973 f .1526

[illegible] [1]

[illegible] [2]

[illegible] 1988 [illegible] [3]

[illegible] 11-1 [illegible]

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(1) [illegible] 1985/86 [illegible] 1986 [illegible] 759.
(2) [illegible] 1986/54 [illegible] 1987 [illegible] 861.
(3) [illegible] 1987/111 [illegible] 1989 [illegible] 160.

Džƥƶ! ȸǂT ĂƵƥ!ƒ ƥƧ NJƶdž ǑƲlǒ ǐƦ!ƒ ƧdžǕƒ ǴǒǁƵ!ƒ ǵƥƶ!ƒ ƗdžǂƠdž LJĂǈǴp LJdž ƗƶȘǴƙ!ƒ ǉƥǴdž!ƒ

.(1)" ƒ ǴȚƙPǓƒ

lƧƒƥǗƒ ƧƒƧp LJD ǏǁƵ ăĂƵƥ!ƒ ƥƧ Ǒ5 ƘƥǈƙȘƒ ƗdžǂƠdž!ƒ LJD DžǂƠ!ƒ ƘǴǒƛǒƠ ǵǖP LJdž ƠƲƙǒ

LJĂǈǴp LJdž ƗƶȘǴƙ!ƒ ǉƥǴdž!ƒ Ǒ5 ǴnjǒǁƵ ƒ ĂȚǈdž!ƒ ƘƒƧƒƧl!ƒ LJdž Ʃǒ! DžǂƠdž!ƒ DžǂƠ ƦǒȢǈƙ ƲȢƧƕ

ǏǁƵ ǴnjdžǴǂƠD ƘƛƧƒĂƙ ƻǒǂ5 ǁ!Ʀǂ ƧdžǕƒ LJǴǂ ƒƦǫĂ Ü1992 ƗǈȘ! 12 DžpƧ ǴǒǁƵ!ƒ ǵƥƶ!ƒ ƗdžǂƠdž

ƘǴȚǴȚƙPƒ LJD ǴǈdžǁƵ ƒƦǫ ƗȚǴP Ü1989 ƗǈȘ! 11 DžpƧ ƗdžǂƠdž!ƒ LJĂǈǴp ǵȔ Ǒ5 ƒƦNj Ʃǂ Ƶ

DžƹƧ!Ǵƕ ÜǑ!ǴƠ!ƒ LJĂǈǴl!ƒ Ǒ5 ǴdžǈǒƖ (D/9) ǉƥǴdž!ƒ Ǒ5 ƧȚƠ!ƒ ǵǒƕȘ ǏǁƵ LJĂǈǴl!ƒ ƒƦNj ǵȔ Ǒ5 ƗdžǂƠdž!ƒ

11 Ü10 LJǒƥǈƖ!ƒ LJǂ!Ă (11-1) ƥĂǈƕ!ƒ Ǒ5 ƗdžǂƠdž!ƒ ƘǴȚǴȚƙPƒ ƘƧȚƠ (D/9) ǉƥǴdž!ƒ LJD LJdž

ǏƲƙldžƕ ǴǈȚƠdž LJǴǂ Ă! ǏƙƠ ǐƧƒƥǫ ƧƒƧp ǐD ǏǁƵ ǴnjƙƕǴpƧ ƲƧ5 Ǒ5 ƗǒƠǖȚ!ƒ ƗdžǂƠdž!ƒ ƘƱƵD

.ǈǴƲƙldžƕ ƧƥǴȚ!ƒ LJĂǈǴl!ƒ

ǴnjƙƥƒƧǫ LJƵ lƧƒƥǘ! ǴƠǴȚ5ǫ (ƗƙƋdž ƗƶdžǴƞ ƩǒƒƧ Ǒ!Ǵƶdž) ƧƒƧp ƥƶǒ ǕD Džƥlƙ Ǵdž ǷĂƲ ǏǁƵ

NJƠ!ǴȚ! DžǂƠ!ƒ ƧƥȚ ǐƦ!ƒ ǑƵƥƙȘdžǁ! ǑǈĂǈǴl!ƒ ƨǂƧdž!ƒ Ǒ5 ƧǒƛƋƙ!ƒ ƗƱǁȘ LJdž Ǵnj! Ǵdžƕ ƗdžƨǁDž!ƒ

.(2)NJdžǴdžD LJƶƱǁ! ƴƲPǒĂ ǴǒƧƒƥǫ ǻƧƒƧp ƧƕƙƶǒǑ!Ǵƙ!ǴƕĂ

ǑƶƕƙƧƒƧl!ƒ ǏǁƵ ƧƛD LJdž ǑǁȚǕƒ ƧƒƧl!ƒ ǴǴƺ!Ǘ Ʃǒ! NJǈD Ǐ!ǫ ǈǴƞƙǓƒ ƒƦNj ƔNjƦǒ :ǏdžƑƙǁƐ LJƑƜƗǗƐ

Ǒ5 ƗǒƧȚdž!ƒ ǴǒǁƵ!ƒ ƗǒƧƒƥǗƒ ƗdžǂƠdž!ƒ Ƙnjƞƙƒ ƥpĂ Üǵǖlƙȗƒ ǏǁƵ ƧǒPǕƒ ƒƦNj Ǒ5 LJƶƱǒ Dž! Ǵdž

Ü1989/ĂǒǈĂǒ/25 ǫǒƧǴƙƕ ƧƥǴȚ!ƒ ǴnjdžǂƠ Ǒ5 NJƕ ƘƲp Ǵdž ĂNjĂ ÜǈǴƞƙǓƒ ĂƠǈ ǴnjdžǴǂƠD ƲƶƕƖ

ǴnjǒǁƵ ǵdžƙTƒ Ǒƙ!ƒ ƧǴƛǈ LJdž ǁ!Ʀ ǏǁƵ ƔƙƧƙ Ǵdž ƴdž ÜƥĂȚldž!ƒ ƥǒƥƠƙ ƥƥȚƕ ǑNjĂ NJǒ5 Ƙ!ǴpĂ

ƧƒƧlǁ! ƗlƠǖ!ƒ ƗǒpƧƙ!ƒ ƘƒƧƒƧp ǴǴƺ!ǫ DžǂƠ!ƒ ǁ!Ʀ LJdž ǻƥƕD ...ƥĂȚldž!ƒ Ʃǒ!" :DžǂƠ!ƒ ƽĂƱǈdž

.703 ƒ Ü1977 ÜLJǒdžǴƠdž!ƒ ƗƕǴlǈ ƗǁƞDž Ü1998/339 DžpƧ ǴǒǁƵ ǵƥƵ (1)

.1986/54 DžpƧ ǵdžƠǒ ǐƦ!ƒ ƗǁƕǴȘ!ƒ ƗƠ5Țƙ!ƒ Ǒ5 NJǒ!ǫ ƧǴTdž!ƒ ƗdžǂƠdž!ƒ DžǂƠ ƽĂƱǈdž ƒƦNj (2)

[illegible]

[illegible] [1]

[illegible] [2]

[illegible]:

1- [illegible]

2- [illegible] [3]

(1) [illegible] 25/[illegible]/1983 [illegible] 386 [illegible]

(2) [illegible] 1512 [illegible] 26/3/1958 [illegible] 386 [illegible]

(3) [illegible] 275 [illegible] 274 [illegible]

1994/1/31 1993/308

(1) .12

(1) .534 ص

(2) .110 ص

(3) .4318 ص ،1996/6/29 ،1996/101

(4) .171 ص ... .79 ص

[illegible]

[illegible]

.[1] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] [2] [illegible]

[illegible]

[illegible]

.[3] [illegible]

[illegible]

[illegible]

[illegible] Epoux Leseuer [illegible]

[illegible]

[illegible] 1948/12/30

(1) [illegible] 1997/432 [illegible] 1998/4/15 [illegible] 405.

(2) [illegible] 24.

(3) [illegible] 127.

[illegible] 1949/3/18 [illegible]

[illegible] 1949/3/18 [illegible] 1948/12/30 [illegible]

[illegible] [1]

[illegible]

[illegible] [2]

[illegible]

[illegible] (11) [illegible]

[illegible]

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(1) [illegible] 412.

(2) [illegible] 333 [illegible] 1973/4/1 [illegible] 127.

[illegible] .(1)[illegible]

[illegible]

[illegible] .(2)[illegible]

[illegible]

[illegible]

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(1) [illegible] 1999/121 [illegible] (2) [illegible] 2000.

(2) [illegible] 210.

ƘƵƧƬ ǴnjǚȠǷ ǈǆǆ ǑǨ!ƒ Ɨǚƶ!ƒ ƇǴƽǨǉǛ ýƮǕƒ ƗǒơǈǆǆǊ NJǁơƖ ǀƧƒƥǕƒ ƗnjƞǏǚƵ yǴǨǆǆǒ NJǉƎ5 ƗǒǉǍǉǴǀ!ƒ

ýƮǕƒ ƗǒơǈǆǆNJǁơƖ ǀƧƒƥǘ! ǈƗǆǆǒ ĭƦ!ƒǍ YǍƧƬǆǆ!ƒ Ƨǒƺ ĭƧƒƥǗƒ ƧƒƧ!!ƒ ǏǨơǍ .ƔơƖ!ƒ ƥƵƒǍp

.[1]ǑƑǴƯ!!ƒ ǈƶƱ!ƒ ǀƥǆǆ ýǘƤ Ʊ!5 ǁ!Ʀ ýƶƽǨ ǈǅ ǴnjǉƗǆǆǒ NJǉƎ5

Ƙ5!ǴƤ ƒƦƎ5 ǕƗǒƵǍƧƬǆǆ!ƒ ǅƥǆǆ ǍNj ƗǁǒƶǆǆƔ!ƒ ǴnjǨƒƧƒƧp Ɣơ Ɩ Ǒ5 ǀƧƒƥǕƒ ƽơ! ǑǉǍǉǴǀ!ƒ ƩǴƖǛǴ5

ǆƱƤ!ƒ ƠǒơƮǨ ǴnjǒǚƵ ƔȠǍǒ NJǨƒƦ ǅƥǆǆ!ƒ ƒƦNj ǈƎ5 ǺǁǒƶǆǆȤƧƒƧp ƘƦƤǨƒǍ ƗǒƵǍƧƬǆǆ!ƒ ǅƥǆǆ ǀƧƒƥǕƒ

ýǴǅǆǆ!ƒ ýǒǁƖ ǏǚƵ ƗǒǉǍǉǴǀ!ƒ ƨƗƒƧǆǆ!ƒ ƧƒƧǀǨƖƒ ǅǍƨ! Ɨȵơǁ ǁ!Ʀ ƧǒƺǁýǍ!ƒ ǈǅǍ ǕNJǒ5 ƘƶpǍ ĭƦ!ƒ

ƔǨƧǒ Ǜ ýƱǴǁ!ƒ ƧƒƧ!!ƒ ǈǅǍ ƗƮǴƤ NJǒǚƵ ĭƥƶǨ!ƒ ƗǒǴǅǨơƒǍ ƧƱƤǚ! ƗǒƵǍƧƬǆǆ!ƒ ǅƥǆǆ ƯƧƶǒ ǴǅǉǪ

.[2]ǑƶȠƧ ƧǍǅǁ NJǁơƖ ƗǒǉǴƗǆǆǪ ǅƥƶǁ ýǴǀǒ ǏǨơ NJǁ ǑǉƶǆǆƔ!ƒ ƥƧƽǚ! ǴǁƖǨƗǆǆ Ǵ!ơ

ǑƗ! ƗǒƧƒƥǕƒ ƘƒƧƒƧ!!ƒ Ɣơ Ɩ ǅǴƗơǅǍ ƱǁƒǍƯǁ ƥǒǀǨ!ƒ ǅǍƨ! ǏǚƵ ĭƧƒƥǕƒ ƇǴƯ!!ƒ ƧǀǨƖƒ ƥpǍ

ǴnjǒǚƵ ǅƨǨǚǨ Ǜ ǑǨ!ƒ Ɨ!Ǵơ!ƒ Ǒ5Ǎ ǕƗǒƧƒƥǕƒ ƘƒƧƒƧ!!ƒ ƗǒƶȠƧ ǅƥƵ ǅƥǆǆ ǏǚƵ ƇǴǉǍǨƖǕƒ ƒƦNj ýǍǆp ǈƗǆǆǒ

ǅƥƶǁ ǴnjǉƧƮǨ ǏǚƵ ǅƗơ!Ǵǁ ƥƥƧǨǒ Ǜ ĭƧƒƥǕƒ ƇǴƯ!!ƒ ǈƎ5 ǅǴƗơǕƒǍ ƱǁƒǍƯ!ƒ ǉƦnjǁ ǀƧƒƥǕƒ

.[3]ƗƶȠƧ!ƒ ǅƥƵ ǅƥǆǆǁ ýƤǨ ǴǅǉǪ ǁ!Ʀǁ ǴnjǉǛ ƗǒƵǍƧƬǆǆ!ƒ

yǆǆ ƯpǴǨǒ ǁ!Ʀ ǈǛ ýƮǕƒ ƗǒơǈǆǆǊ NJǁơƖ ǈƗǆǆǒ Ǜ ǅǒǚǊ!ƒ ĭƧƒƥǕƒ ƧƒƧ!!ƒ ǈǅ ǴǉƧƬǅ ƥ!5

ǀƧǍƧƯ!Ǵǁ ǈǍƗǒƖ ǅǒǚǊ!ƒ ĭƧƒƥǕƒ ƧƒƧ!ǚ! ƔơǴƖ!ƒ ƧƒƧ!Ǵ5 ǕƗǒƧƒƥǕƒ ƘƒƧƒƧ!!ƒ ƗǒƶȠƧ ǅƥƵ ǅƥǆǆ

ĭƧƒƥǕƒ ƇǴƯ!!ƒ ƧǴƬǅ ƥpǍ .[4]ǉƧǍƥƮ ơǒƧǴǨ ǈǆǆ ƔǍơƖǆǆ!ƒ ƧƒƧ!!ƒ ƧǴǀƇ ǅƥƵǒƖ NJǉǛ ǅǒƶȠƧ

:NJǉǆǆ ƧƮǆǆ Ǒ5 ǴǚƵ!ƒ ƗǒƧƒƥǕƒ ƗǆƗơǆǆ!ƒ ƘƯp ƥ!5 ǕǀƥǒƵ ƘǴƖǴǉǆǆ Ǒ5 Ɨ!ƒƖǆǆ!ƒ ǉƦNj ǏǚǪ ǈǆƧǴǆǆ!ƒ

ƗnjƞǏǚƵ yǴǨǆǆǒ NJǉƎ5 ƗǒǉǍǉǴǀ!ƒ NJƱƒƒƧƬ ǅƥ5ǍǨƖǆǆ ƗơǒơƮ ƩƖǷ ǏǚƵ ĭƧƒƥǕƒ ƧƒƧ!!ƒ ǅǴƤ ƒƦǪ ..."

[1] ƧƯǉƒ: ǑǉƖơ ǍƥǍƧƥ ǕƮ ƗǒǴnjǉ ƧƒƧ!!ƒ ƧƒƥǕƒ ǈǆ ƧǒƺƧƱ ƽƧơ ƧƥǴǆǆ!ƒ ǕǴƽƖ!ƒ ƧǴƗ!ƒ ǕǑƽƧƵ!ƒ ǕǀƧǉǴ!ƒ 1981ǕƇ
.304 ƒ

[2] ǑǉƖơ ǍƥǍƧƥ ǕƮ ƗǒǴnjǉ ƧƒƧ!!ƒ ƧƒƥǕƒ ǈǆ ƧǒƺƧƱ ƽƧơ ƧƥǴǆǆ!ƒ ǕǴƽǆǆ yƔƧǆǆ ƖǴǍƽ Ǖ 306. ƒ

[3] ǕǀƧ ƧƧƱƬ ǕĭƧƒƥǕƒ Ƙ5 ƘƒƧƒƧ!!ƒ ǕƗǒƧƒƥǕƒ yƔƧǆǆ ƖǴǍƽ Ǖ 337. ƒ

[4] ǈǆƧǒǚƖ ǕƧƖ!ƒ ǕƗǒǉǍǨǚ!ƒ ƗǒƵǴƵ!ƒ ƘƒƧƒƧ!!ƒ ǕƗǒƧƒƥǕƒ yƔƧǆǆ ƖǴǍƽ Ǖ 659. ƒ

[illegible] .[1]"[illegible]" [illegible]

[illegible]

[illegible]

.[2] "...[illegible]"

[illegible]

[illegible]

.[illegible]

[illegible] :[illegible]

"[illegible]" [illegible]

[illegible]

[illegible] 2011/1/20 [illegible]

[illegible]

.[3] (2001/1/1 [illegible]) [illegible]

(1) [illegible] 1955/4/10 [illegible] .324 [illegible]

(2) [illegible] 6/680 [illegible] 1954/4/19 [illegible] .954 [illegible]

(3) [illegible] 1245 [illegible] 2011/1/21 [illegible] .1 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] **Tendance subjective**:

(ب) [illegible] :[1]

[illegible] Classique

[illegible]

[illegible] .[2]

[illegible]

---

[1] [illegible] 2004 [illegible] ص 455.

[2] [illegible] 1962 [illegible] ص 451.

[illegible]

[illegible] .(1)

[illegible] :(2)

[illegible]:

1- [illegible]

[illegible]

2- [illegible]

[illegible]

3- [illegible]

[illegible] .(3)

---

(1) [illegible] .455

(2) [illegible] .39

(3) [illegible] 2004 .460

:Tendance Objective [illegible]

[illegible] (أ)

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] (ب)

[illegible]

-1 [illegible]

[illegible]

-2 [illegible]

[illegible] .[1] [illegible]

:[2]La doctrine mixte [illegible]

[illegible]

[illegible]

[illegible]

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(1) [illegible] 14 [illegible] 2007 [illegible] 2004 [illegible] 16.

(2) [illegible] 1994 [illegible] 182 [illegible] 1990 [illegible] 17.

[illegible]

[illegible] Ripert [illegible] Planiol [illegible].[1]

[illegible].[2]

[illegible]

[illegible].[3]

---

(1) [illegible] 1953 [illegible] 184 .

(2) [illegible] vlacho george,le retrait des actes administratifs, rev.adm1970,p.412. [illegible] 1953 [illegible] 184 [illegible] 254 [illegible] 157 .

(3) [illegible] 157 ..

[illegible]

[illegible] .[1]

[illegible] [2] [illegible]

[illegible] .[3]

[illegible]

[illegible]

[illegible] [4] [illegible]

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(1) [illegible]:
http://www.iasj.net/iasj?func=fulltext&aId=38609

(2) [illegible] 541.

(3) [illegible] 157 ..

(4) [illegible] 210.

[illegible]

[illegible] 3/11/1999 [illegible]

[illegible] 2000/5/9 [illegible]

[illegible] 12 [illegible] .[1]

[illegible]

[illegible] (26/[illegible]) [illegible]

[illegible]

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(1) [illegible] 2000/351 [illegible] 2000/12/13 [illegible] 4 [illegible] 12 [illegible] 200. [illegible] 14.

[illegible]

[illegible] .[1]

[illegible] .[2] [illegible]

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[1] [illegible] .66 [illegible]

[2] [illegible] 1973/76 [illegible] 1973/10/30 [illegible].

[illegible]

[illegible] (11) [illegible] 1952 [illegible] (3) [illegible] .(1)"..... [illegible]

[illegible] 12 [illegible] 1987 [illegible] .(2)

(1) [illegible] 2007/363 [illegible] 2008/3/6.
(2) [illegible] 2007/363 [illegible] 2008/3/6.

:1988/379

.14 (1)

[illegible] .[1]

[illegible] .[2]

[illegible]:

1- [illegible].

2- [illegible].

3- [illegible].

4- [illegible] .[3]

(1) [illegible] .3 [illegible] 2009 [illegible]

(2) [illegible] 1958 [illegible] .71 [illegible] 2009 [illegible] .12-13 [illegible]

(3) [illegible] .73 [illegible] 2002 [illegible] 82 [illegible] .47 [illegible] 2004 [illegible] .31 [illegible] 1979 [illegible]

[illegible]

(Droit Moral) [illegible]

[illegible] .[1]

[illegible] 1968/15 [illegible]

[illegible] 118/ 13/ 4565 [illegible] 12/ 5/ 1968 [illegible]

[illegible] (94) [illegible]

[illegible] 1966

[illegible]

[illegible]

[illegible]

هي [illegible]

[illegible] هذه [illegible]

[illegible]

[illegible]

[illegible] .1 [illegible]

[illegible]

[illegible] (89) [illegible] .2 [illegible]

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(1) [illegible]
. 78 [illegible]

[illegible] [1]

[illegible] [2]

[illegible]

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(1) [illegible] .25

(2) [illegible] .26

Ĭ ďĵƙıǁɛ ƘϴĠĎžıǁɛ

ă ƥɛƍŰɛ ƥɛƥʂǂǁ Ĭ yƜƥǁɛ ƥƙŬɛ ǐŭǀǈ ƑĎž

ĠǋƧƼƒĂƙ ɎƞƒĂ!ƒ ƱĂƧƬ!ƒ ĎǏ Ü ĭ ƧƒƥŰƒ ƧƒƧǀ! ŎƶƞƧ!ƒ ƧλŰƒ ǂŏƒƥǚ ƥĂƬ ǀďž!ƒ ƥŏƥơƙ ŰĂĎ ĠǉŏǀƵ

ƧƒƧǀ!ƒ ƻ ƬĂ ĬǀƵ ɎƙƧƙďž!ƒ ƧλŰƒ ǇǰǚǈǀƧŏƤĎĂ Ü ĭ ƧƒƥŰƒ ƧƒƧǀ!ƒ ĬǀƵ ǂŏƶƞƧ!ƒ ǂƽƬ ƷĠǚƬŰ

:ǂŏ!Ġƙ!ƒ Ɏ!ĠƱďž!ƒ Ŏƽ ƒƦǋ ýǂ ǂƪƒƧƥ ýĂĠǉƙǈƪĂ Üǂŏƶƞƨ!Ġǚ ĭ ƧƒƥŰƒ

üǋŬɛ ƒǂƲĎžıǁɛ

ă ƥɛƍŰɛ ƥɛƥʂǂǁ Ĭ yƜƥǁɛ ƥƙŬƑĠ ƍǋƬʂĎžıǁɛ ƍĭƍϴǂ

ĭ Ʀ!ƒ Ĭǉƶďž! ĠƶǚƙŎƶƞƧ!ƒ ƧλŰ! ǇƥƧŰƒĂ ƧƬďžĂ ĠƪǉƧƼ Ŏƽ ĭ ƧƒƥŰƒ ǋǀƽ!ƒ ƘĠƽŏƧƶƙ Ƙƥƥƶƙ

ǉƦǋ ƲƧƶǚ ǂơĠǚ!ƒ ĎžĂǀŏƪĂ ƠǀƱƬďž!ƒ ƒƦǋ ǇƵ Ŏǀǂ ƧĂƬƙ ǇďžČĠǌǀƽ!ƒ ǇĠǋƦǪ Ŏƽ ϴƥǀǉŏ

:Ŏǀŏ Ġďžǂ ƘĠƽŏƧƶƙ!ƒ

:Ĭ ƨďžƥƻǁɛ ǉʂƻǁɛ ƹĭƥyǂ -ƈ

ǇƵ ýǀǉ ǂŏơ Ü ǀƥŏƥƵ ƘĠƽŏƧƶƙǚ ŎƪǉƧƽ!ƒ ǋǀƽ!ƒ Ŏƽ ĭ ƧƒƥŰƒ ƧƒƧǀ! ŎƶƞƧ!ƒ ƧλŰƒ ƻƧƵ

:ǋǈǉďǚ ǋƽƧƵ ǂŏơ ÜŎƶƞƧ!ƒ ƧλŰ! ĠƽŏƧƶƙ Auby ŎƪǉƧƽ!ƒ ǋŏǀƽ!ƒ

[1] .ýǚǀƙƪďž!ƒ Ŏƽ ĠǋƧĠǍƈ ĂĎ Ŏ ư Ġďž!ƒ Ŏƽ ǂǚƪƙǂďž!ƒ ʂĂǀơ!Ġǚ Ʃ Ġƪďž!ƒ

:ǇƵ ǀƧĠǚƵ ʂŏƥƥ!ƒ ĠǋĠǉƶďžǚ ǂŏƶƞƧ!ƒ ǇĎ Rouber ăĎƧ Ġďžǉŏǚ

ǂŏǉĂǉĠƥ ƨǂƒƧďž ĬǀƵ Ġǌŏƽ ăƥƶƙŏ Ŏƙ!ƒ ǂƲơǀ!ƒ ƦǉďžƸŏƶƞƧ ǇĂǂŏ ǇĂǉĠǀ!Ġƽ ÜǇĂǉĠǀ! ʂǚĠƪ ƥĂƞĂ

ĠďžƥǉƵ ǂŏƶƞƧ!Ġǚ ƸǚŏƶďžĭƧƒƥŰƒ ƧƒƧǀ!ƒ ǇĂǂŏ Ŏ!Ġƙ!ĠǚĂ .ǋǈǚ ýďžƶ!ƒ ýǚƥ ǂŏƑĠǌǉ ǂƽƬǚ Ƙƪƪďƙ ƥƥ ǇĂǂƙ

ǂŏơ Bertrand ƻŏƧƶƙ Üʂǚ Ġƪ!ƒ ƻŏƧƶƙ!ƒ ǇďžɎŏƧƥĂ ÜǋǈǚýďžƶƵ!ƒ ĬǀƵ ʂǚĠƪ ƍŏƧĠƙ Ŏƽ ýƥƶŏ

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(1) ƨƲǇĎ ýŏƬƽƙ ƻŏƧƶƙ :Ŏƽ ŎƶƞƧ!ƒ ƧλŰƒ ÜŎƪŏƧƙǈƪ!ƒ ƥďžơĎ :Ŏƽ ŎƶƞƧ!ƒ ƧλŰƒ ÜƍƈƠư!ƒ ÜǋƞƧďž ʂǚĠƪ Ü
J.M: Auby.op.cit.p.20Üƻ ŏƧƶƙ!ƒ ƒƦǋAuby Ĭ!ƒ Ɏƪǉ Ă.234 ƒ

16 ... 2008 ...

Roubier:ledroit transitoire,2eme ed ,1960.p.9.[1] .234

ce.16.guin2008,n296578,federiton des syundicats ,ajda,2008p.1231.[2] .234

.191-190[3]

ƨǴλŰƒ Ŏ5 ýþƵ Ǵdž ƒǊ Ɨŏzȵƨ!Ǵƕ ƻ ƮĂŏ ƨƒƨ!!ƒ :Nǃ!Ăǀƕ Ŏdžǀơ þĂdžơdž ƨĂķǂþ!ƒ NǃƼƨƶŏĂ

ǚ5 ǉƨĂþƮ ǏǀƵ ƗǀƕǴƪ yƑǴpĂ! ƗŏǀƕǀķƪdžƗ ƨǴλŰƒ ǇJdž ƨƒƨ!!ƒ ýþƵ ƒǊ ǴdžD ÜƗǀƕǴƪ ƗzpƒĂ! Ɨŏư Ǵdž!ƒ

.[1]Ɨŏzȵƨ ǁǴǉǊ ǇJĂǂķ

Ŏ5 Džķ Ǵdžƕ ĭƨƒþŰƒ ƨƒƨ!!ƒ ƩǴƪdž Ŏǉƶŏ :Nǉǀƕ ĭƨƒþŰƒ ƨƒƨǀ! Ŏzȵƨ!ƒ ƨλŰƒ ŎƪŏƨķǉƪǃƒǃƼ ƨƵĂ

ǇJŏĂǂķƕ ƗƮǴƤ ƨƮǴǉƵ ǇJdž ƨ5ƒĂķ Ǵdž ĂD ÜƗŏķƒǊ!ƒ ƗŏǉĂǇǴǀ!ƒ ƨǂƒƨdžǀ! ČǴư ǀǉƒ ĂD ǇJŏĂǂķ ǇJdž Ŏư Ǵdž!ƒ

.[2]Ǌŏ5ǉķ!ƒ ƨŏơ NǃĂƤþ ýǀƕp ƨǴλc ǇJdž ǴǌŏǀƵ ƔķƨķǴdž ĂD Üƨǂƒƨdž!ƒ ǉǊǉ ČǴư ǀǉƒ ĂD

Ŏ5 ǴǌdžǴǂơD ǇJdžĂ ÜǴǌdžǴǂơD ǇJdž þŏþz!ƒ Ŏ5 Ǵǀz!ƒ ƗŏƨƒþŰƒ Ɨdžǂơdž!ƒ NǃǀƕǴƪ!ƒ ŎǉǴzdž!ƒ Ƙþǂ D þpĂ

ƨƒƨǀ! Ŏzȵƨ!ƒ ƨλŰƒ ǇD ÜDžǂơ!ƒ ƒǊǉ ǇJdž ǇJŏǀƕķŏ Ɨŏơ Ü1992 ƨŏƒƨƕ5 9 Ŏ5 ƨþǴƮ!ƒ Ǵǌdžǂơ :ǁ!Ǌ

ǉþƵǴ!!ƒ ýU Ŏ5 ƗŏǉĂǇǴǀ!ƒ ƨǂƒƨdž!ƒ ǇJdž Ǐư ǀǉƒ ĂD ǇJĂǂķ Ǵdžƕ ĭƨƒþŰƒ ƨƒƨ!!ƒ ƩǴƪdž :Ŏǉƶŏ ĭƨƒþŰƒ

.[3]Ɨdžŏþ!!ƒ

ǇJƕ 1972 ƨŏǴǉŏ 31 Ŏ5 ǉƨþǴƮ!ƒ yŏƨƬķ!ƒĂ ăĂķ5!ƒ Ŏdžƪ!! ƗŏdžĂdžz!ƒ Ɨŏzdžȵ!ƒ ăĂķ5 Ŏ5 ČǴȵĂ

þp Ǵdžƕ ǉƨĂþƮ ǏǀƵ ƾǀƕǴƪ ơŏƨǴķ Ǐ!ǫ ĭƨƒþŰƒ ƨƒƨ!!ƒ ƨλD þƒþķƨƒ Ŏǉzķ" ĭƨƒþŰƒ ƨƒƨ!!ƒ Ɨŏzȵƨ

.[4]Ŏư Ǵdž!ƒ Ŏ5 ǇJŏǀdžǴzǀ! ƗǀƪķǂdžƗ!ƒ ƾĂǀơ!Ǵƕ ƩǴƪdž ǇJdž ǁ!Ǌ ǏǀƵ Ɣķƨķŏ

ǏǀƵ ƗơƒƨƮ ƨƒƨ!!ƒ Ŏ5 ƒ ǉŏ ǇJƕ ǁ!ǊĂ ÜƗơŏƨƮ ǇJĂǂķ þp ƗŏƨƒþŰƒ Ƙƒƨƒƨ!!ƒ Ŏ5 Ɨŏzȵƨ!ƒĂ

ÜǴư ŏD ƗŏǉdžưƗŏzȵƨ!ƒ ǇJĂǂķ þp ăƨƤD ƗǌǉȵǇJdžĂ ÜǉǊǴ5ǉ ơŏƨǴķ ǏǀƵ ƾǀƕǴƪ ơŏƨǴķ ǇJdž ĭƨƪŏ ǇD

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[1] ƨƮǴǉ: ƘǴdžǚƪ!ƒ ǊǴ5ǉ!ƒ ƨƒƨ!!ƒ ĭƨƒþŰƒ Ŏ5 ǇJĂǉǴǀ!ƒ ĭƨƒþŰƒ ƨǉþŏŎÜ ƨdžƨȵŷ ƾǀƕǴƪ Üƾ ƒ .172

[2] ǉdžơD ƪŏƨǉķǉƪǃƒ ÜŎƪŏƨǉķǉƪǃƒ ƨλŰƒ Ŏzȵƨ!ƒ Ŏ5 ČǴư ǀ!ƒ ÜƨdžƨȵŷƾǀƕǴƪ Ü ƒ .235

[3] ƨƒȵŷ ǂơ Ǵdžǂơdž!ƒ ƗŏƨƒþŰƒ Ǵǀǀz!ƒ Ŏ5 ƷƮǴǉ!ƒ ƨpŏD 2550 !ƪǉƗ 36 ƾÜ ǴǀƕƨŏơƗ 1992/2/9 ǇJÜ ƗdžȵdžĂƵƗ!ƒ Ʃ
(37) þƵǴǉ (76) ƒ 764Ŷ ĂƨƒȵŷƗ ǉŏ ưǴ ǂơ Ǵǌdžǂơdž!ƒ ƗŏƨƒþŰƒ Ǵǀǀz!ƒ Ŏ5 ƷƮǴǉ!ƒ 1180 ƨpŏD ƪǉƗ 50
ƾ ǴķƨŏƒƗ 2007/1/6 Ǘ ƗdžȵdžĂƵƗ!ƒ ƍƒǴþǀƕ ŎƷ!ƒ ƨƨǂķǴǌ Ǵǀǀz!ƒ ƗŏƨƒþŰƒ Ǵǌdžǂơdž!ƒ- ƨƑþ!ƒ ǉƨ- ǏĂŰƒ- ȵƨƨ!ƒ
ƒŰĂ ýĂD ǇJdž ǂƕĂķǂD 2006 ǫ!Ǐ 2007 ƨŏƨƕ ƗǀƵǴǉ (3) ƨpŏD .93

[4] ƨƒȵŷ ăĂķ5 ƗŏdžĂdžz!ƒ Ɨdžŏƪ!! ƗŏƬķ!ƒĂ ƨpŏD 90 ƗǴƨŏǴǀƕ 31 ƨŏǴǉŏ 1972 Ǵǀ ǁȵƪ 12 ƨŏǴǉŏ
1972ÜǴǌ ƻǀdž ƨpŏD 275/3/86Ü ƗǉƪǴƗ ƗǉþǴƪǂƒ ƗĂƨƬzƒĂ ǇJdž ýĂD ǂƕĂķǂD 1971 ǫ!Ǐ ƨpc ƪŏþƕ ƨǌdž ƨǌdž 1972Ü
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(1) .191

(2) .24-23

(3) 1997 205

(4) .179

[illegible] .[1]

[illegible]

[illegible]

[illegible] :[2]

(1 [illegible]

[illegible]

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(1) [illegible] (1997/472) [illegible] 1998/10/20.

(2) [illegible] 234 [illegible] 188.

ǑkďǒĂ ÜŦlhĜʅ!ƒ ŦǒǉĂǉĜl!ƒ ΥĜưĂǕƒ ýǓ Ǒ5 ƧƮĜǉƶ!ƒ ýďǩŦď Ǒǉǡǉĝp ƨŦƧď ǁĜǉǋ ǇĂŦǒ Ĝďƥǉƶ5 ƘƒƧƒƧl!ƒ Ǒ5 ŦǒƶƞƧ!ƒ ƌƬǉǩ ĜǉǋǇď5 ÜĈĜƺ!Ǘƒ ĂĐ ýǒƥƶǩ!Ĝƕ Ĝďǫ ƨŦƧď!ƒ ƒƦǌƕ ǴʅĜď ĭƧƒƥǗƒ ƧƒƧl!ƒ .ŦǒƧƒƥǗƒ

ǓĂ ÜǇĂŦǩǩ Ǔ ƨŦƒƧď!ƒ ǉƦǋĂ ÜǇĂǉĜl!ƒ ǉĜƞǩ ƒ ƤƬ!ƒ Ŧ!Ĝơ ƥƥơǩ Ǒǩ!ƒ ǑǋŦǒǉĂǉĜl!ƒ ƨŦƒƧď!Ĝ5 ǉƦǋĂ ÜƧƮlǒ ĂĐ ýĂƱǒ ƥp ǇĜďƨ Ǒ5 ĜǋƧĜƛ ƔǩƧǩĂ ĜǌǉǒĂŦǩ ǅǩǒ ýƕ ÜŦǉǒƶď ŦƱơ! Ǒ5 ĜǋƧĜƛ ƔǩƧǩǩ ǇĐ Ǔǫ ÜƧƒƧl!ƒ ĜǌďƱǉǒ Ǒǩ!ƒ ƱĂƧƬ!ƒ ĈĜ5ǒǩʅƒ ăƥď Ǒ5 ýƛďǩǩ ÜŦǉǒƶď ŦǒǉǒĂŦǩ ýơƒƧďƕ Ƨďǩ ƨŦƒƧď!ƒ ƒƦǫ Ǔǫ ÜǑǉǡǉĜl!ƒ ƨŦƧď!ƒ ĈĜƬǉǫ Ĭ!ǫ ĭƥƌǒ Ǔ ƧƤǓƒ ǇĂƥ ŦǒǉĂǉĜl!ƒ ǉƥƵĜl!ƒ ƱĂƧƬ ǇďĈƨƞ ĈĜ5ǒǩʅƒ ýǋƌď!ƒ ĬǁƵ ĭƥƧ5 Ƨƒƨp ǉƧƒƥǗƒ ǇƵ ƧƥƮĂ ÜŦǒǉĂǉĜl!ƒ ǉƥƵĜl!ƒ ƱĂƧƬ! ĈĜ5ǒǩʅƒ ǁĜǉǋ ǇĜŦ ÜǋǇƕ ƩĜʅď!ƒ ƨĂƞǒ Ǔ ÜǑǩƒƦ ǑǉǡǉĜp ƨŦƧď Ǒ5 ǇĂŦǒ ƒ ƤƬ!ƒ ǇƎ5 ÜǑǉǡǉĜl!ƒ ƨŦƧď!ƒ ƔĜʅǩŦĜƕ .[1]ǑƶƞƧ!ƒ ƧƛǕƒ ĭƦ ƧƒƧl!ƒ ƧƥƮƎƕ

:Ĝǋ! ǅŦơ Ǒ5 ĈĜƞ Ŧǒơ ÜĜǌďĜŦơƉ ǇďƧǒƛŦ!ƒ Ǒ5 ŦǒǉƥƧǕƒ ĜǒǁƶIƒ ýƥƶ!ƒ ŦďŦơď ǋǩƥŦƉ Ĝď ƒƦǋĂ ǇƉ ǅ1988 Ŧǉʅ! (1) ǅpƧ ŦǒǉƥƌƤ!ƒ ŦďƥƤ!ƒ ǅĜǓǉ Ǉď (66 Ü1/63) ƥƒĂď!ƒ ƒ ĂƮǉ ƥƒĂď Ǉď ƥĜ5ǩʅǒ" Ĝǋ!Ĝďƶǩʅƒ ĂĐ ŦǒƵĂƧƬď!ƒ ǅƥƵ ăĂʅ ĜǋƥǒIǒ Ǔ ŦǒƧǒƥlǩ ŦƱǁʅ Ǒǋ ǇǒƺǓĂď!ƒ ýlǉ Ǒ5 ǉƧƒƥǗƒ ŦƱǁʅ Ŧ!Ăƥ!Ĝƕ ƧǓĂď!ƒ ŦpǔƵ ǇĐ ĈĜưpĂ ǽǋl5 ǉƧlǩʅď!ƒĂ Ĝǋƕ ǅǁʅď!ƒ ƏƥĜƕď!ƒ ǇďĂ ÜǅĜƶ!ƒ ƠĜƮ!ƒ Ƨǒƺ! ǉƦǋ ǅĜŦơƉ ýǒƥƶǩĂ ÜǇƬ!ƒ ƒƦǌƕ ǉƧƥĜƮ!ƒ ƘƒƧƒƧl!ƒĂ ŦďǓǉǕƒĂ ǇǒǉƒĂl!ƒ ĜǌďŦơǩ ŦǒďǒǓǉǩ ŦpǔƵ Ǒǋ ÜǁƦ Ǒưǩlǩ ŦďĜƶ!ƒ ŦơǁƮď!ƒ ƘǉĜŦ Ĭǩď ÜǅĜƵ ĈƒƧƞǫ Ăǋ ƧĂƧǓ!ƒ Ɣʅơƕ Ĝǌǒ5 Ƨǒǒƺǩ!ƒĂ Ŧpǔƶ!ƒ ƥǒƥƞ ǅǒǓǉǩƕ ƘpĂ ĭĐ Ǒ5 ǉƧǒǒƺǩ ƨĂƞǒ ǅĜƵ ǑǉǡǉĜp ƨŦƧď Ăǋ ŦǒơĜǉ!ƒ ǉƦǋ Ǉďď ƧǓĂď!ƒ ƨŦƧďĂ

ÜǑǉĜƛ!ƒ ƥƥƶ!ƒ ÜŦďĂŦơ!ƒ ĜǒĜưp ǉƧƒƥǫ ŦǁƞďǩÜǅǋǩďǒǁ! ƠǁƮǕƒ ŦǒǡĜǉƞ!ƒ ƥƵƒĂl!ƒ ŦǒƶƞƧ Ǒ5 Ŧ!Ĝlď ÜǑďǁơ ƥĂďơď[1] .64 ƒ ǅ1964 ÜŦǉďĜƛ!ƒ Ŧǉʅ!ƒ

ĂD ÜNǏö!ę Ŏdžƙǈö ĭŖ!ƒ ƽ5Ƨdž!ƒ DžöƱǈƙƕ ƗlǊžƙdž!ƒ ƘƒƧƒƧl!ǴƕLJžƱ!ƒ ƽơ Nj! LJĂǂö LJD LJĂþ NJöǊƵ ĭƧƪö

.[1] "...Džöþl!ƒ DžöƱǈƙ!Ǵƕ ĭþơƙ!ƒ

ƗöơLJdžĂ ..." :ǴNj! DžǂơŎ5 Ƙưp þl5 ƧƬdžŎ5 ĭƧƒþŰƒ ǺǴưl!ƒ ƗdžǂơdžŎ5 ýǴơ!ƒ ǁ!Ŗ ǂĂ

Ŏ5 ƖƧƧldž!ƒ þƵƒĂl!ƒ ǴNjdžǂơƙ ÜƗödžöƱǈƙ ƗpǔƵ ŎNj ƗdžĂǂơ!Ǵƕ ƻƱĂdž!ƒ ƱƕƧƙ Ŏƙ!ƒ Ɨpǔž!ƒ LJD

ƗƱǊƪǊ!Ă ƗdžǴž!ƒ ƻƑǴƱĂ!ƒ LJƋƬ Ŏ5 ƖƧþǴƬ!ƒ ƗdžǴž!ƒ ƗödžöƱǈƙ!ƒ ƘƒƧƒƧl!ƒ ŎpǴƕĂ ƢƒĂǊ!ƒĂ LJöǈƒĂl!ƒ

ƘǴöưƙldž ƔƪơƕǺǴƬƙ ƘpĂ ĭDŎ5 ƘƒƧƒƧl!ƒĂ ƢƒĂǊ!ƒ ǉŖNj DžǴǂơD ýöþžƙ Ŏ5 ƽơ!ƒ ƗöŖöƽǈƙ!ƒ

NJö5 LJžƱ!ƒ ƨĂƞö ŰĂ ǼǉĂǈǴp DžöǊƪ ǁ!Ŗ Ŏ5 ǴNj5ƧƬƙĂ ƗödžĂǂơ!ƒ ýǴdžƵǕƒ Ƨöƪ LJƪơĂ ƻĂƧƱ!ƒ

.[2]"ǴNjƙƒŖ ƗdžǴž!ƒ ƘƒƧƒƧl!ƒ ƴdž ýĂƨƙĂ ĬǀƙĂ ƋƬǈƙ Ŏƙ!ƒ ƗƕƪƙǂDž!ƒ ƽĂlơ!ƒ Ɨƞơƕ

ĬƙdžǴNjƕ ƩǴƪdž!ƒ ƨĂƞö ǔ5 ǼöƙƒŖ ǼöǈĂǈǴp ƭƨǂƧdž ƐƬǈƙ Ŏƙ!ƒ ƗöþƧƽ!ƒ ƘƒƧƒƧl!Ǵƕ ƽǊžƙö ǴdžöŎ5 ǴdžD

ǴNjƧǴǺŰ ĬƞǈdžƖƧlƙƪdž ƗöƙƒŖ!ƒ ƗöǈĂǈǴl!ƒ ƨǂƒƧdž!ƒ Ĭlƕƙ Ŏ!ǴƙǴƕĂ ÜǴNjƕ ƴƙdžƙ!ƒ Ŏ5 þƒƧ5ǖ! ǼlơƘƕƪǂD

Ŏƙ!ƒ ƧǴǺŰƒ ƻǴlöę ĂD ǺǴƺ!ę ĬǊƵ ƗơƒƧƬ LJĂǈǴl!ƒ ƒ ǈö Dž! Ǵdž ÜþöþƞƩ!ƒ ƧƒƧl!ƒ ƧĂþƬ þžƕ Ĭƙơ

.[3]ŎǈĂǈǴl!ƒ ƨǂƧdž!ƒ ǴNjþ!Ăö

Ƨlƙƪƒ" :NJö5 ǺǴƞ Dž1995/9/20 Ŏ5 ƧþƬ DžǂơƕǴǊž!ƒ ýþž!ƒ ƗdžǂơdžƘưp þþƬ!ƒ ƒŖNj Ŏ5Ă

ĬǊƵĂ LJƋƬ!ƒ ĭĂŖ! ǴƕƪƙǂdžǼlơ ƋƬǈD ĬƙdžĭþƧƽ!ƒ ƧƒƧl!ƒ ƔơƪƖƧƒþǖ! ƨĂƞö Ű NJǈǴƕ þǴNjƙƞŰƒ

ǴNjöǊƵ ƒĂƬǈdž!ƒ ǼdžĂö LJöƙƪ!ƒ þǴžödž ýǔP Űę NJƕơƪ ƨĂƞö ǔ5 LJĂǈǴlǊ! ƻ!ǴPdž ƧƒƧl!ƒ LJD ƯƧ5

ƢƕƬDĂ ÜlƧƒþŰƒ ýƕp LJdž ýöþžƙ ĂD ǺǴƺ!ę ĭD LJdž LJƬơƙ ŰęĂ ǴǊž!ƒ ýþž!ƒ ƗdžǂơdžLJĂǈǴp Ŏ5

ƧĂƪ!ƒ ǉǺǴǈƕ ýdžǂDĂ ƋƬǈD ŎƵþƙƪdž!ƒ LJD ǴdžƕĂ NJöǊƵĂ ƧƒƧl!ƒ NJǈdžưƙ ǴdžöŎ5 ǼƕƪƙǂdžǼlơ LJƋƬ!ƒ ƔơǴƬ!

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[1] ýþƵ ǴöǊƵ Ŏ5 ăĂƵþ!ƒ ƩþƧ (1999/599) Ü ƧþǴƬ!ƒ ǋöƧǴƙƕ 2000/6/25 ÜDž ƘƒĂƬǈdž ƨǂƧdž ƗƒþƵĂ ǴNjdžǂơĂ ƗƒþƵ ƨǂƧdž ƘƒĂƬǈdž ÜDž2000/4/17 ǋöƧǴƙƕ ƧþǴƬ!ƒ Ü(1999/517) ƩþƧ.

[2] Džǂơdž ƗdžǂơdžǺǴưl!ƒ ĭƧƒþŰƒ ƗöƧƬdž!ƒ Ŏ5 LJžƱ!ƒ ƩþƧ (491) Ɨǉƪ! 2 Üƽ ÜDž1949/5/19 ǋöƧǴƙƕ ƧþǴƬ!ƒ ÜǴǉǴƙ ǉǈdžǂdžƗƵǂdžƕ ƗƵƕƧ!ƒ ƗƒĂƪ!ƒ Ü ƒ 603.

[3] ƓǴƬƙǺǴƞǔƪ!ƒ ÜƘǴöǈƒþƵ ŖǴƙƪ! ƧƒƧl!ƒ ĭƧƒþŰ ƧþƵǊ Ü ǂöƨ ƪƕǴƒ Ü ƒ 196.

[illegible] .[1]

[illegible] .[2]

[illegible] .[3]

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(1) [illegible] (1995/76) [illegible] 1995/6/20 [illegible] 4241. [illegible] (1985/160) [illegible] 1986/7/14 [illegible] (1981/55) [illegible] 1981/3/17 [illegible] 186.

(2) [illegible] 197.

(3) [illegible] 514 [illegible] 190-189 [illegible] 28 [illegible] 127 [illegible] 2002 [illegible] 226 [illegible] 188 [illegible].

(2

.[1]

.[2]

.514 ... 1984 ... [1]
.239 ... [2]

[illegible] [1].

[illegible] "... [illegible]

[illegible].

[illegible] 1997/1996 [illegible]

:[illegible]

:[illegible].

:[illegible].

[illegible] 1997/1/1 [illegible] 1997/9/1 [illegible]

[illegible] 1997/9/1 [illegible] "... [2].

(1) [illegible] 239 [illegible] 199 [illegible]

(2) [illegible] (1997/27) [illegible] 1997/11/30 [illegible] 682 [illegible]

[illegible]

[illegible]

[illegible] .[1]

[illegible] .[2]

[illegible] .[3]

[illegible] .[4]

(1) [illegible] .77 [illegible]

(2) [illegible] 1980-1950 [illegible] .64 [illegible]

(3) [illegible] .83 [illegible]

(4) [illegible] .87 [illegible] 86 [illegible]

ƧƒƧǀǁ! Ƚƕƪǈ!Ǥƕ NǈǅD Ƚŏơ ÜȽőǁǆƶ!ƒ ȽŏơǤǈ!ƒ LJǆ NǈǆǅD NJ! ƨŏŏǆǨ!ƒ ƒȒNj LJD Ǐ!ǫ ǼưŏD ƒ ǁƤĂ

ƔĂőƶǁ! ǤnjǆŏƪǀǨ Ƚŏơ LJǆ ǂƧŏƕǂ ǼǆþǀǨ ƘǆþǀǨ LJǗƱƕ!ƒ ȽŏƧƲǈ LJǕ ÜȽơưƒĂ ǀƧǂƽ!ƒ LJƎ ĭƧƒþǗƒ

Ŏƽ ƻƪƶǨ!ƒ ƔŏƵĂ LJĂǈǤǀ!ƒ Ƚƽ!ǤƤǆ ƔŏƵ ǤnjǈǆŏǨ!ƒĂ Üĭ ƧƒþǗƒ ƧƒƧǀ!ƒ LJǗƱƕ Ǐ!ǫ ĭ þƋǨ ŎǨ!ƒ

ƧƒƧǀ!ƒ ƪǤƱǈ Ŏƽ NǨŏ!ǚǀǨƪƒ NJ! ƔŏƵ ȽƱǁƪ!ƒ ýǤǆƶǨƪƒ Ŏƽ ƻƪƶǨ!ƒ Ɣŏƶƽ ÜȽƱǁƪ!ƒ ýǤǆƶǨƪƒ

Ŏƽ ƻƒƧơǈǗƒ ƔŏƵĂ ƧĂǨƪþ!ƒ Ƚƽ!ǤƤǆ ƔŏƵ LJŏƕ ƨŏŏǆǨ!ƒ Ɣƞŏƽ ýőƧƬǨ!ƒ ýǤƞǆ Ŏƽ ǤǆD Üĭ ƧƒþǗƒ

ƪŏƕƱǨ!ƒ þǈƵ Nŏ!ǫ ýĂƮĂ!ƒ ýnjƪŏ NǨƒȒƕ ǘǀǨƪǆ ǼƕŏƵ ƧŏƤǕƒ LJĂƽŏ! ǁ!ȒĂ ÜȽƱǁƪ!ƒ ýǤǆƶǨƪƒ

.[1]ŎǁǆƶƵ!ƒ

Ŏƽ ƻƪƶǨ!ƒ Ɣŏƶƕ Ɣŏƶǆ NǈǆƕƎ ŎƶƞƧ!ƒ ĭƧƒþǗƒ ƧƒƧǀ!ƒ ƻƮĂ DǨ ƒȒǫ NǈǅD Ƨƽ!Ȓ!Ǥƕ ƧŏþƞƧ!ƒĂ

LJD ŎNjĂ ǼǆFƒþ ǀþơƒĂ LJĂƽǨ Ƚƞŏǈǈ!ƒ LJƎ ÜLJĂǈǤǀ!ƒ Ƚƽ!ǤƤǆ Ɣŏƶƕ Ɣŏƶǆ NǈǅD ĂD ȽƱǁƪ!ƒ ýǤǆƶǨƪƒ

.[2] NJǤƷ!ƎƕDǆƽơ!ƒ ƔƞĂǨƪŏ ǤǆǆǘƱǤƕ LJĂƽŏ ƧƒƧǀ!ƒ

ƒȒNj ƧƧǀŏ ƒȒ! ÝŎƶƞƧ ƧƛƎƕ ǂȒƽǤǈ LJǤƽ ƒȒǫ ǼǆþƶǈǆǨ LJĂƽŏ ĭƧƒþǗƒ ƧƒƧǀ!ƒ LJD Ǐ!ǫ Ƚ!ǤƛĭDƧ ƔNjȒĂ

LJƽƧ ƧǤŏnjǈƒ ŎǈƶŏǤǆǆ ÜNJŏƽ ǼǀǀơǨǆ NJƕƕƪ LJƽŏ Dǆ! ƘpĂ Ŏƽ ƧƒƧp ƧƒþƮǫ ŎǈƶǨ þp ȽŏƶƞƧ!ƒ LJD ĭDƧ!ƒ

.[3]ǼǆþƶǈǆǨ LJĂƽŏƽ NǈǤƽƧD LJǆ

ƒȒNjĂ ÜǼǆþƶǈǆǨ LJĂƽŏ ŎƶƞƧ!ƒ ƧǅǕƒ ƒȒ ĭƧƒþǗƒ ƧƒƧǀ!ƒ LJD ĭƧƮǆ!ƒ Ƚ!Ăþ!ƒ Σǁƞǆ ƧƧp þpĂ ÜƒȒNj

LJD ȽǆǤƶ!ƒ ǀþƵǤǀ!ƒ LJD Ǐ!ǫ ƘƕNjȒ Ƚŏơ [4]ýőƧƬǨ!ƒĂ ăĂǨƽ!ƒ ŎǆƪǀǁǁȽŏǆĂǆƶ!ƒ Ƚŏƶǆƞ!ƒ NǨƧƧp Ǥǆ

Ǖǫ ŎƶƞƧ ƧǅǆƕǤNjȒǤƽǈ ƨĂƞŏ ǕĂ ÜǤNjƧĂþƮ ơŏƧǤǨ LJǆ ýǤơ ƧǅǆƕǕǫ ȒƽǈǨ Ǖ ȽŏƧƒþǗƒ ƘƒƧƒƧǀ!ƒ

ÜƪƕǤƪ ýƞƧǆ ÜȽŏƶŏƧƬǨ!ƒ ȽƱǁƪ!ƒ ýǤǆƶǨƪƒ Ŏƽ ƻƒƧơǈǗƒĂ ƧĂǨƪþǁǁ! ýőƧƬǨ!ƒ Ƚƽ!ǤƤǆ ÜĭƧĂnjǈǪ!ƒ ƪƒƨƧ!ƒ þƕƶ[1] .87 Ü86 ƒ

.243 ƒ ÜƪƕǤƪ ýƞƧǆ ÜŎƶƞƧ!ƒ ƧǅǕƒ Ü ŎƪŏƧǨǈƪ!ƒ þǆơD[2]

.314 ƒ ÜƧƬǈ LJĂþƕ Üĭ ƧƒþǗƒ ƱǤƬǈƪ!ƒ ŎǈǤǚ!ƒ ƔǤǨƽ!ƒ ĭ ƧƒþǗƒ ƧƒƧǀ!ƒ ȽǆǤƶ!ƒ ƏþǤǆǆ!ƒ : ĭ ƧǤƪ ƪŏƽƬ Ŏ ƞ ƧĂ ƞ[3]

ƻǁǆ Ü1986/3/11 Ƚƪǁƞƕ 1986/4/7 Ŏƽ 357 DǆƧ ÜýőƧƬǨ!ƒĂ ăĂǨƽ!ƒ ŎǆƪǀǁǁȽŏǆĂǆƶ!ƒ Ƚŏƶǆƞ!ƒ ăĂǨƽ ýƞƒƧ[4] ǤNjƒĂǨƽ ýƞƒƧĂ Ý24 ƒ ÜƪƕǤƪ ýƞƧǆ ÜýǤƶǨǆ!ƒ þƕƶ ǤǗƵ ƧĂǨƽþ!ƒ ƻ!Ƌǆ Ŏƽ Ǥnjŏ!ǫ ƧǤƬǆ .326/6/86 DǆƧ LJǆ ƏþǤǆǆ!ƒ ȽƵĂǆƞǆ Ü270/1/86 DǆƧ ƻǁǆ Ü1972 ƧŏƒƧƕƽ 23 Ƚƪǁƞ 1972 ΣƧǤǆ 5 ơŏƧǤƕ 195 DǆƧ .205 ƒ ÜLJ1972 ƧƕǆƪŏþƧƤ Ǐ!ǫ Dǆ1971 ƧƕĂǨƽD ýĂD

[illegible]

(1) [illegible] .322

Ɨ!Ăþ!ƒ Σǁηdž Džǂơ Ɨǒzηƨ!ƒ ƒ ĂƬƤ ǁǒƑɘη ĭƨƒþŰƒ ƨƒƨ!ƒ ƇƓƺ!ǁ Ʀưp Ǒǩ!ƒ DžƓǂơŰƒ LJdžĂ

lþƓdž!ƒ ƒ Lj! ǁlǁƱ NLjD Ɨǒơ LJdž Nǒ5 þƨĂ ĭƦ!ƒĂ [1]"ƨĂƨĂƒ" lþǒƨη Ɨǂƨt LJzƱ Ǒ5 ǑƪLjƨ5!ƒ

ƗǒƑǁƨnjǂ!ƒ ăĂl!ƒ ýǒǁ ƨƓzƪD lþƓǒɘ LJ35 (1947 ƗLjƪ ƨǁdžƪǒþ 30 ƨƒƨp LJdž 4 lþƓdž!ƒ) lƨĂǂƦdž!ƒ

ƺTǂ ýĂD Ǒ5 ƨnjǓǩ LJD lþƓZ Ɣηǒ Ǒǩ!ƒ ƦƓǂŭnjǩƪŮƒ ýǂ ĬǁZ ƓƪLjƨ5 Džǒ!ƓpD ýǂ ƫơ Ǒ5 ĭƨƪǩ)

Ɨǒơ LJdžĂ Ý(1948 ƗLjƪ ƨǒƓLjǒ ýĂD LJdž ƭƨƓǁǩZƒ ĭD ÜǑ!Ɠơ!ƒ ƨƒƨ!ƒ ƨTLj ƣǒƨƓǩ ĬǁZ ƗlơŬ lƇƒƨp

ƗlơŬ lƇƒƨp ýĂD LJ35 þƒþz! LJǒǩǁpƓzǩdž LJǒǩƇƒƨp ƺTǂ ýƬ5ǩ Ǒǩ!ƒ LJdžɘ!ƒ lƨǩ5 Ɣǁƪǁ NLjD Ʀǁ ƓĂ!ƒ LJǫ

ƨǒƓLjǒ ýĂD ĬǁZ ƗlǁƓƪ!ƒ ƦƓǂŭnjǩƪŮƒ LJdž ƭƨǒƺƬ ĂD ƭƨǒǁǂ ƭƇɘη ýdžTǩ 1948 ƨǒƓLjǒ ýĂD ĬǁZ

ƦƓǂŭnjǩƪŮƒ ljƦNj Ɨǁƪƒơdž Nǒ5 LJĂzƱdž!ƒ ƨƒƨ!ƒ ƨƨp ƒƦǫĂ ÜlƇƒƨ!ƒ ljƦNj Nǒ5 Džǩǩ ĭƦ!ƒ ƣǒƨƓǩ!ƒ Ɣƪơ

ǁ!ƦǂĂ Üýǁlǩƪdž! Ɨǁƪ Lj!Ɠǁ Ůǫ ƠƑƒĂ!ƒ LJƓǒƨƪ Džþzǁ Ǒư Ɠl!ƒ Dþǁdž!ƒ ƺ!ƓƤ þp LJĂǂǒ5 ýƽǩƨdž!ƒ ƨzƪ!Ɠǁ

ƨƓƱƤǫ Ɣηǒ Ɠnj! ǁlǁƱĂ 1945 ĂǒLjĂǒ 30 ƨdžD LJdž ƓNjþzǁ ƓdžĂ 29 lþƓdž!ƒ Ǒ5 lƨƨldž!ƒ lþZƓl!ƒ

ƒƦNj Ĭnjǩljƒ Ă "ƓnjlǒǁƱǩ ýǁp ƗdžƓz!ƒ ƗƱǁƪ!ƒ ƓNjþþơǩ Ǒǩ!ƒ ƦƓdžþƤ!ƒĂ ƦƓηǩljdž!ƒ ýǂ ƨƓzƪǁ ƨĂnjdžη!ƒ

LJdž 4 lþƓdž!ƒ ƒ Lj ƇƓƺ!ǁ ǁ!ƦĂ ÜǑzηƨ ƨƛD LJdž NLjdž ư ǩ Ɠdžǒ5 Nǒ5 LJĂzƱdž!ƒ ƒ Lj!ƒ ƇƓƺ!ǫ Ĭ!ǫ Džǂơ!ƒ

.[2]1948 ƨǒƓLjǒ 1 ýǁp ƦƓǂŭnjǩƪƒ ĬǁZ ƓnjpƓǁƱLjƒ Ɨǒơ LJdž ƨǂƦ!ƒ ƺ!ƓƪƨƒƨĬ!ƒ

ƨƒƨp LJD" Nǒ5 ƇƓη ĭƦ!ƒĂ 1955 ƨǒƒƨǁ5 22 Ǒ5 ĭƨƒþŰƒ ƇƓư l!ƒ Ɨdžǂơdž Džǂơ ýǒǁl!ƒ ƒƦNj LJdžĂ

ĬZþdž!ƒ Ɨǒpƨǩ LJĂǂǩ LJD ǁLjĂLjƓp Ǒƺǁljǒ LJƓǂ NLjD ƨdžŰƒ ƗǒƓƩĂ ÜNƪƓƪD Ǒ5 ǁdžǒǁƪ ƨþƬ þpĂ Ɨǒpƨǩ!ƒ

ƒƦNj Ǒ5 ǁǒƑɘη ƨƒƨ!ƒ ƇƓƺ!ǫ LJǒzǩǒ5 ÜƗǒpƨǩǁ! Ɨdžɘŭ!ƒ ƗǒLjĂLjƓl!ƒ lþdž!ƒ ýƓdžǂǩƪƒ ƣǒƨƓǩ LJdž ƭƨƓǁǩZƒ

.[3]lþdž!ƒ ljƦNj Nǒ5 N! Ʀǁdžǩǂƒ ĭƦ!ƒ ƣǒƨƓǩ!ƒ LJdž ĬZþdž!ƒ Ɨǒpƨǩ ƨƓǁǩZƒĂ ƒĂƬƤ!ƒ

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(1) þdžơD ĭƨƪǒ Üĭƨƒþŭƒ ƇƓư l!ƒ ƏþƓǁdž!ƒ DžƓǂơD Ɨdžηƨǩ Üĭƨƒþŭƒ ƇƓư l!ƒ ýηƨdž Üƫǁƪ ƒ 70 ƓdžĂ ƓNjþzǁ.

(2) lƨƓǁZĂ Ɨdžǂơdž!ƒ Ǒǩ!ƒ Ɠnjǁ ǁdžƑƒþ Ǒ5 ƒƦNj ƒƤƬĂ ƒ ǑNj "ƇƓƺ!ǫ ƨƒƨ!ƒ Ɠdžǒ5 ư ǩ NLjdž LJdž ƨƛŰƒ ƨzηƨ!ƒ Ǒ".

(3) ýηƒƨ Džǂơ Ɨdžǂơdž Ƈư l!ƒ Üĭƨƒþŭƒ ĭƨ5 ǁ5 22 ƨǒƒƨǁ5 1955Ü Ɨǁηdž Ɨdžơ!ƒ Üƪƒƪ!ƒ Ɨǁǒ!ƒ ƨŰƒƨzǁLJƒ Ü

ƒ 739.

[illegible]

(1) [illegible] 1984 [illegible] 266.

(2) [illegible] 1980 [illegible] 414.

(3) [illegible] 1968 [illegible] 412.

(4) [illegible] 1992 [illegible] 3.

(5) [illegible] 1979 [illegible] 648.

[illegible]

[illegible] ..."

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ...[illegible] ...[illegible]

[illegible] ([illegible])

.[1]" [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

.[2] [illegible]

[illegible]

[illegible]

[illegible]

(1) [illegible] 1960/9/21 [illegible] 1997 [illegible] .32

(2) [illegible] 1997 [illegible] .32

ÜLJĂǈǴl! NJƙƽ!ǴƤdžƿ NJƙǒƵĂƧƬdž DžƥƵ ƘĂƿƛƿ ǁ!ƦĂ ÜǐƧƒƥŰƒ ƧƒƧl!ƒ LJdž NJǒƽ LJĂƶƱdž!ƒ Ǥƨƞ!ƒ ǤǦƺ!Ƿƿ

ǤǦƺ!Űƒ LJƉ Ǐ!ƥ lƧǴƬŰƒ ƧƥƞƙĂ .Ƚdžǒǁǉ!ƒ ǤƒƨƞǕƒ LJdž ǼƽƌƌdžǑǁƮǕƒ ǐƧƒƥŰƒ ƧƒƧl!ƒ Ǐlƿǒ ǁ!ƦƿĂ

ÜǐƧƒƥŰƒ ƧƒƧl!ƒ ƒ ĂƮǈ ĂƉ ÜǤƒƨƞƉ ǑpǴƿ ýǒƥƶƙ Ǐ!ƥ ǐƥƌƙ Ǔ ȽlǒƧƱƿ NJƛĂƥơ LJǒƶƙǒ ǑƑƨƞ!ƒ

ĂƉ ÜȽƵĂƧƬdž!ƒ ƒ ĂƮǈ!ƒ ĂƉ ÜǤƒƨƞǕƒ ýǒƥƶƙ ǉƒƥƌdž ǐƦ!ƒ ǑƑƨƞ!ƒ ǤǦƺ!ŰǴƽ ÜȽƵĂƧƬdž!ƒ ǉƧǴƛcĂ

.[1]ǼưĂƽƧdž LJĂǂǒ ƧƒƧl!ƒ ƧǋĂƞ Ǒƽ Ƨǒƺƙ

ƥǒƥƞ ǐƧƒƥƥ ƧƒƧp Ǐ!ƥ ýĂǕƒ ƧƒƧl!ƒ ýĂơƙ Ǐ!ƥ ǐƥƌǒ ǐƦ!ƒĂ ǑƑƨƞ!ƒ ǤǦƺ!ŰǴƿ ǑưǴl!ƒ DžǴǒp LJƥ

ƒ ĂƮǈ ýǒƥƶƙ Ǐ!ƥ ȽǒƥƌDž ƧǒƩ ȽǒƽǒǂƿǑƑƨƞ!ƒ ǤǦƺ!ŰǴƿ DžĂlǒ LJƉ NJǒǁƶƽ ÜLJĂǈǴl!ƒ Ƚƽ!ǴƤdž Ǒƽ NJƶpĂǒ

ǐƧƒƥŰƒ ǑưǴl!ƒ ƔƞƒĂ LJdžƽ ÜǑƑƨƞ!ƒ ǤǦƺ!Űƒ ȽƿĂƶƮ LJdžǂƙ ǴǈǋĂ ÜȽƵĂƧƬdž!ƒ ǉƧǴƛcĂ ÜƧƒƧl!ƒ

LJdž Ƚǒlƿƙdž!ƒ ƒ ĂƮǈ!ƒ Ǐǁ Ƶ ƧǒƛƌƙǑ!ƒ Ǒƽ NJƙǴǉǴǂƶǈƒĂ ÜǑƑƨƞ!ƒ ǤǦƺ!ŰǴƿ ǉƧƒƧp ǉƦǴƤƙƒ ýƿp ȽơƵ!ƒ

.[2]ǑƑƨƞ!ƒ ǤǦƺ!Űƒ DžƥƵ Džƨ! ÜƧƒƧl!ƒ ƧǋĂƞ Ǒƽ Ƨǒƺƙ!ƒ ƧƛƉ LJǴǂ ƒƦƺƽ ÜǤǦƺ!Űƒ

LJdžưƙƙĂ ÜlƧƒƥŰƒ ǴǋƧƥƮƙ Ǒƙ!ƒ ȽǒƧƒƥŰƒ ƘƒƧƒƧl!ƒ ǑǋǁǀǁƦ Ǐǁ Ƶ Ƚǒǁdžƶ!ƒ ƘǴlǒƿƱƙ!ƒ DžǋƉ LJdžĂ

Ƨǒƻ ǛǑƱǴƿ ǐƧƒƥŰƒ ƧƒƧl!ƒ ǑƿƮǒ LJƉ ȽǒǈĂǈǴl!ƒ Ƚƽ!ǴƤdž!ƒ ǉƦǋ Ǐ ưƙlǁdžƽ ÜǛǈĂǈǴp lƨƑǴƞ Ƨǒƻ Ƚǒƶƞƻ

ǑưǴl!ƒ LJƉ Ǔƥ ÜȽƵĂƧƬdž!ƒ ȽǒƧƒƥŰƒ ƘƒƧƒƧl!ƒ Ǐǁ Ƶ LJĂǈǴl!ƒ ǴǌǋƙƧǒ Ǒƙ!ƒ ƧǴƛŰƒ LJdž ƧƛƉ ǐŰ ǊƙLJdž

ǐƉ ǐƧƒƥŰƒ ƧƒƧl!ƒ ýǒƥƶƿ DžĂlǒ DžƛƉ LJdžĂ ÜǑƑƨƞ!ƒ ǤǦǋǉŰƒ lƧǂƽ Ƚƽ!ǴƤdž!ƒ ǉƦǋ Ǐǁ Ƶ ƾƿƱǒ ǐƧƒƥŰƒ

.[3]Ƚdžǒǁǉ!ƒ ƧǴƛŰƒ ǑpǴƿ ǤǴlƙǉƒĂ ǑƶƞƧ!ƒ ƧƛǕƒ ǤǦƺ!Ƿƿ ǁ!ƦĂ ÝȽƑƨƞƙǁ! ǼƿǴp LJǴǂ Ǐƙdž ǼǒƑƨƞ NJƑǴǋǉǈ

ǝƥǴƿdž!ƒ LJdž NJǈƉ ..." :NJǒƽ ǤǴƞ ǐƦ!ƒ ǉƧƒƧp LJƌƬ!ƒ ƒƦǋ Ǒƽ ǐƧƮdž!ƒ ǐƧƒƥŰƒ ǤǴưl!ƒ ƘǴlǒƿƱƙ LJdžĂ

LJǒǉƒĂl!ƒ Ǒƽ ǂƧƧldž ǑƶƞƧ!ƒ ƧƛǕƒ ƒƦǋ LJǂǒ Dž! ǴdžǑƶƞƧ ƧƛƉ ƠƑƒĂǁ! LJĂǂǒ LJƉ ƨĂƞǒ Ǔ NJLJƉ lƧƧldž!ƒ

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(1) ưƧƒƩDž ǐǐƧĂǈ Ǒǂdž ăƥdž ȽƱǁǉ ǑưǴp ǤǦƺ!Űƒ Ǒƽ ýǒƥƶƙ ƧƒƧl!ƒ ǐƧƒƥŰƒ Ü ƒ 39.

(2) ƔǒǋĂ lƥǴǒƵ ǉǓdžȽ ÜǑƑƨƞ!ƒ ǤǦƺ!Űƒ Ƙƒƶƒƶl!ƒ ǊǒƧƒƥŰƒ ÜǊƧƒƩǈ ǉǴƭȽ Ü ƒ 15.

(3) ǐƨdžƧ ǈƱ ÜƧƵǴƬ!ƒ ƜƧƥƙ ǉƧǴƱƒ!ǉ LJƽ ÜǑƧƒƧl!ƒ ƘǒƧƒƥŰƒ ÜƥƒǉȽ ÜǉǒƧƒǴl!ƒ Ü ƒ 412.

[illegible] .(1)

[illegible] .(2)

[illegible] .(3)

[illegible] .(4)

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(1) [illegible] 1972/3/19 [illegible] .(1) [illegible] 346 [illegible]

(2) [illegible] .346 [illegible]

(3) [illegible] 1957/3/16 [illegible] .695 [illegible]

(4) [illegible] 1974/6/30 [illegible] 1980-1965 [illegible] .3778 [illegible]

(1) .406-404 .455–450 1989

(2) 1998/10/20 1999 70 .728

[illegible]

[illegible]

1. [illegible]

2. [illegible]

3. [illegible]

4. [illegible]

5. [illegible]

6. [illegible]

ƧǴƘƵƒ ǏǁƵ ǑƶƞƧ ƧƛƬ ƚǊǒƶǆ ƘƒƧƒƨ ƧƥƮƘ ǇǞ ƠǒƧƮ ƒ ǉƓǍ ǀƧƒƥǗƒ ƳƧƬǆ!ƒ ǛǍƤǒ ǐǞ

ǴǋǀǒǀƠƘ Ǐ!ǫ ǀƧƒƥǗƒ ǏƶƪƘ ǑƘ!ƒ ƚǆǴƶ!ƒ ƚƠǁƮǆ!ƒ ǛƛǆǑ ƳƧƬǆ!ƒ ǇǞ

7. ΣǴƪǗƒ ǆǑǁƪ!ƒ ǆƥƸǆ! ǆƥƵ ƚǒƶƞƧ!ƒ ǍǊ ǉƋǴǉƸ ǏǁƵ ǝƥǴƸǆ!ƒ ǆǆǴƶ!ƒ ǇǍǉǴǀǁ!.

8. ƥƮǀǒ ƧƛǕǴƸ ƧƒƧǀǁ! ǑƶƞƧ!ƒ ǐƧƒƥǗƒ ǐƥƶƘ ǐƧƒƥǗƒ ƧƒƧǀ!ƒ ǏǁƵ ƭǍǀƠ!ƒ ƚƸƪƘƚǆ!ƒ

ǗǓǆǴ!ǆƸ ǗǑƯǆ!Ǵ ǏǁƵǍ ƚǁǉƒ!ƧǆƱ ƚǉǍǉǴǀ!ƒ ƚƘƸǴƛ!ƒ ǍǞ ǆǴ ƔƘƧƘ ǴǋǒǁƵ ǇǆǴ ƧǴƛƈ ǛƸƤ ǋ!ǍƤƥ ƯǑǒƨǀǁƘ!ƒ ǗƦǒƨǇǘƘ!ƒ

ƱǍƷƘƳǍ ǍƮ ƵƮǍ! ƒƧƒƥǗƒ ǐ ƸǊǇ ƞƧƶǑ ǇǞ ǑǍƱǆ ǇǍƱƶƧ ƚǆǍ ǇǁǍǉǴƥ ǑǉǍǉǴƥ ǑƘƒƦ ǍǞ" ǑƮƤƮ"

ǆǇƒǆƘ ǴǉƮƧǉ ǆǍǒǀ ǋƥ ǒǀǍ!ǊƘǁƘǑ ǒƞƔ ƬǉƧǴ ƞǍƥǉ ǆǆǴƪǗƒ ǆƥƵ ƚǆǴƪǗ ƸƘ ƒƧǒƷƘƘ

ƒǊƘǗƒ ǍƯƮ ǇǉǍǉǴǀ!ƒ ƥǍǉ ǆǴǀǇ ǍǇǍ ǇǆǴ ƮǇǆ ƒƧƞƶǒƚ ƚƪǆǴƪǗƒ ǁǁƘ ƒƧƒƥǗƒ ƚǉǍǉǴǀ!ƒ

ƒƮƤƮǒƚ ǑƘ!ƒ ƘǉǆǴƘǋ ƵƮƧƬǴǋ ƸƛǞ ƮƧǍƧǀ ƧƒƧ!ƒ ǋǴƱƚǁ.

1. ǑǍƮǑ ƒƠǍƚ ǇǞ ǆǍƚ ǇǆǴǀǁ!ƒ ƚƘƪǗƒ ƚǆǴƶ!ƒ ǆƥƸǆ! ǆƥƵ ƚǒƶƞƧ!ƒ ǍǊ ǆǑǁƪ!ƒ ǆǴƶ!ƒ ǇǍǉǴǀǁ!

ƒƪƞǴƚ ǐǍǇǆƠ!ǆǆ ǇǆƵ ǀƧƥǴƮƒ ƒƧƥƧƒƚ ǍƒǏ ƧǞǍ ǉǴ!ǒƚ ǆƶǁƚ.

2. ƒƘǁǒƥ ǆǆƧƧǆǁǆƘǍ ƒƘǑ ǆƞƥƧƒ ƳƧƬǆ! ǆƥƵ ƚǒƶƞƧ!ƒ ǆǆǴƮǴ ǋǆƧǆǁǆ ǆƒƧƒ ƚǉǍǉǴǀ!ƒ ǍƯƒǆǆǀǍ

ƵǁƯ ƚƘƧǁƒ!ƒ ǍƪƘƧƒ!ƒ ǇǆƮ ǇǆƵ ǍǍ ǇǁƵ ǍƘƥǉƧ Ǘǫ ǋǁǆǍ ǉǍƶǒƚ ǇǆƮ ǇǆǴ ƚǒƶƞƧ!ƒ ǇǞ ǆƪƘƧ

ƧǑǍ ƘǍƘƒ ƣƧǆƚǍ ǆǍƦǉǍǉǴǀ! ƥƒƵǆ! ƧƘƮǑƥ ƵǁƘǉǍ Ǐ!ǫ ǇǞ ƧƥƮƘ ǀƧƒƥǗƒ ƘƒƧƒƨ ƧƛƬ

ǑƶƞƧ.

3. ƱǍƪƘ ƥƒƧƶǀ ǍƘǁǀ!ƒ ƚƥƮǁǆ!ƒ ǍƒǏ ǆǍƧ ǆǆǴƪǗƒ ƒƧƒƥǗƒ ǐǗ ǆǆǴ ǉǋǆǆ ǍǆǆǒƚƘ ƒƧƬǉƘ.

4. ǆǍƘƥǀ ǆǍǆǴƶ!ƒ ǆƥƮ ǆƪƘƧǆ ǍƚǁƘǆƱ ƚǁǀƞ ƒǒƸ ƥǆǍ ƘƥǆƵǆƧǍƵ ǗǑǆƶǆ! ǆƥƵ ƚǒƶƞƧ!ƒǗ ǗǋǀǆǋƷǍƥǑ ǐ

ǐ!ǫ ǛǇƱǍǇ ƒƧƒƥǗƒ ǐǓǍ!ǐ ǇǆǍǆ ǆǍƮƧǍǉ ǗƷǊǆǆ.

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.ǑƕƧż!ƒ

ÜǑƕƧż!ƒ Ƨǂƨ!ƒ Ƨƒþ ÜĆǴȝ!Űƒ ĆǴư p ÜýĂŰƒ ƔǴǂ!ƒ Ü ĭ ƧƒþŰƒ ĆǴư l!ƒ Ü ĭ ĂǴđƱ!ƒ þđơđ ǇǴđŏȠ .14

Đ1986 ÜlƧǌǴl!ƒ

ÜǑƕƧż!ƒ Ƨǂƨ!ƒ Ƨƒþ Ü- ǂǉƧǴlđ ǂȠƒƧþ - ĭ ƧƒþŰƒ ĆǴư l!ƒ Ŏƽ Σ ĂƧþ Ü ĭ ĂǴđƱ!ƒ þđơđ ǇǴđŏȠ .15

Đ1976 ÜlƧǌǴl!ƒ

.ǂƛ!Ǵƛ!ƒ ǂżƕƱ!ƒ ÜýĂŰƒ Ćƨƞ!ƒ ÜǂǉƧǴlđ ǂȠƒƧþ Ü ĭ ƧƒþŰƒ ǇĂǉǴl!ƒ ÜƧĂƬǉđ ǴđĂƙ ƔǴƬ.16

ǂưǌǉ!ƒ Ƨƒþ ÜĐ2009 ǂŏǉǴƛ!ƒ ǂżƕƱ!ƒ -ǂǉƧǴlđ ǂȠƒƧþǇ ĭ ƧƒþŰƒ ƧƒƧl!ƒ :ƧƱǴƤ ƻȠĂŏ ƻŏƧƬ.17

.ǂŏƕƧż!ƒ

.ƘĂƧŏƕ Üǂưǌǉ!ƒ Ƨƒþ ÜǂŏđŏƲǉƙ!ƒ ƘƒƧƒƧl!ƒ ÜǑlƵ ǑǉȣƧđ Σ đƬ.18

Ƨƒþ ÜǂǉƧǴlđ ǂȠƒƧþ Ü ĭ ƧƒþŰƒ ǇĂǉǴl!ƒ Ŏƽ ǂƕĂƙǂđ!ƒ Ƨŏȣ ǂđǴż!ƒ Əþǉƕđ!ƒ Ü ĭ ƨĂƽ ǇŏþƟ!ƒ ƟűƬ.19

.1998 ǂŏƕƧż!ƒ ǂưǌǉ!ƒ

ÜlƧǌǴl!ƒ ÜǂŏƕƧż!ƒ ǂŏƑǌǉ!ƒ Ƨƒþ Üǂŏ!Ăþ!ƒ ǂđǴż!ƒ ǂƨŏƲĂl! ǑǉĂǉǴl!ƒ ĐǴƲǉ!ƒ Ü ĭ ƨĂƽ ǇŏþƟ!ƒ ƟűƬ.20

.1991

.1978 ÜlƧǌǴl!ƒ ÜǂŏƕƧż!ƒ ǂưǌǉ!ƒ Ƨƒþ ÜǂżƕƒƧ!ƒ ǂżƕƱ!ƒ Ü ĭ ƧƒþŰƒ ǇĂǉǴl!ƒ Üƻ Ƨƞ!ƒ ǂŏđżƱ.21

.čĕĔđ ÜlƧǌǴl!ƒ Ü ĭ ƧƒþŰƒ ǇĂǉǴl!ƒ Üƻ Ƨƞ!ƒ ǂđŏżƱ.22

.ǂŏǉĂǉǴl!ƒ ĐĂż!ƒ ǂȠƒƧþ! ýƤþđ!ƒ Ü ĭ ƨǴƞơ Ŏơ!ƒ þƕƵ.23

.ƧƬǉ ǇǴǂđ ĂĐ ơŏƧǴƙ ĂĐ Ƨƒþ ǇĂþƕ ÜǂŏƧƒþŰƒ ƘƒƧƒƧl! ǂđǴż!ƒ ǂŏƧƲǉ!ƒ ÜýlƵ ǇđơƧ!ƒ þƕƵ.24

ǂȠƒƧþ ÜlƧǌƬ!ƒĂ ƧƒþƬŰƒ ǇŏƕǴđ lƧƙƨ!ƒ Ŏƽ ĭ ƧƒþŰƒ ƧƒƧl!ƒĂ ǇĂǉǴl!ƒ Ü ĭ ƧǌĂƞ!ƒ ƨŏƨż!ƒ þƕƵ.25

.2005 ǂŏǉǴƛ!ƒ ǂżƕƱ!ƒ ÜǂŏżđǴƞ!ƒ ƘǴƵĂƕƱđ!ƒ ǇƒĂŏþ ÜǂǉƧǴlđ

ÜƗ!Ăþ!ƒ ƩǁŋdžǄǗƭpĂ ǊǀƼ!ƒ Ŏ5 ƗŏƧƒþŰƒ ƘƒƧƒƧǀ!ƒ ÜƗƼŏǁƤ ǅƶǉdž!ƒ þƕƵ ƨŏƨƶ!ƒ þƕƵ.26

ĭƧƒþŰƒ ǇĂǉǄǀ!ƒ ƏþǄƕdžĂ ƩƪŰ ƗǉƧǄǀdž ƗƪƒƧþ ÜĭƧƒþŰƒ ǇĂǉǄǀ!ƒ ÜŸƒ þƕƵ ŎǉĂŏƪƕ Ŏǉƺ!ƒ þƕƵ.27

.ǇǄǉƕ! Ŏ5 ǄǌǀŏƕƱƙĂ

ÜǅȉĮ1988 ÜƗŏƧþǉƚƪŰƒ ƗƶdžǄŋ ÜƾĂǀơ!ƒ Ɨŏǁƚ ÜĭƧƒþŰƒ ǇĂǉǄǀ!ƒ ÜŸƒ þƕƵ ŎǉĂŏƪƕ Ŏǉƺ!ƒ þƕƵ.28

.ǅȉĮ1989 ÜƧƬǉ ǇǄƚdž ǇĂþƕ ÜĭƧƒþŰƒ ǇĂǉǄǀ!ƒ ÜŸƒ þƕƵ ŎǉĂŏƪƕ ƟǄƙƼ!ƒ þƕƵ.29

.1974 ÜƗdžǄƶ!ƒ ǀƧƒþŰƒ þǌƶdž : ƱǄŏƧ!ƒ ÜĭƧƒþŰƒ ǇĂǉǄǀ!ƒ Ŏ5 ƩĂƧþ ÜǇƪơ ƟǄƙƼ!ƒ þƕƵ.30

.1969 ÜŎƙŏĂƚ!ƒ ĭƧƒþŰƒ ǇĂǉǄǀ!ƒ ƏþǄƕdž ÜǇƪơ ƟǄƙƼ!ƒ þƕƵ.31

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ƧþǄƮdž ÜŎǉþƧŰƒ Ŏǉþdž!ƒ ǇĂǉǄǀ!ƒ ƟƧƬ ÜƧƱǄƤ þdžơ ĭƧĂǉ .þĂ ǇǄơƧƪ!ƒ ǅŏǋƒƧƕ ǇǄǉþƵ.33

.ǅȉĮ1997 ÜþƕƧ ÜƗƵǄƕƱǁ! ƧŋƼ!ƒ ÜƗƵǄƕƱǁ! þǄdžơ ƨƚƧdž Ü-ƗǉƧǄǀdž ƗƪƒƧþ - ƗŏƮƤƬ!ƒ ƾĂǀơ!ƒ

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ÜǀƧǋǄǀ!ƒ ÜǊƭǌǉ!ƒ Ƨƒþ ÜĭƧƒþŰƒ ƧƒƧǀ!ƒ Ŏ5 ǄǋþĂþơĂ ƗŏƶŋƧ!ƒ ƨƒĂŋ ăþdž ÜýǄƶƙdž!ƒ þƕƵ Ǆűƶ.35

ǅȉĮ2004

ÜƗŏǉþƧŰƒ ƗƶdžǄŋ!ƒ Ý Ŏdžǁƶ!ƒ Ɨơƕ!ƒ ǀþǄdžƵ ÜƗŏǉþƧŰƒ ƗƶdžǄŋ!ƒ ƘƒƧĂƬǉdž ÜĭĂǄǉƱƬ ƧǄƱƤ Ŏǁƶ [36]

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.ǅȉĮ1993 ÜǇþƧŰƒ ÜǇǄdžƵ ÜƗŏƕűƱ!ƒ ƘǄdžþƤǁ!

ǀƧƒþŰƒ ƧĂþĂ ƗŏƥƧƙ!ƒ ƘƒƧƒƧƥ Ǆƺ!ǃƕ ǀƧþǄƮ!ƒ ǅǄƚơǖ! ƗŏƕǄŋŏŰƒ ƧǄƛŰƒ ÜƗƙǄơƬ ǅŏǋƒƧƕƒ Ŏdžǌ5.38

.Ǆǌǀŏǀơƙ

ǅȉĮ1970 ÜǀƧǋǄǀ!ƒ ÜƗŏƕƧƶ!ƒ Ɨƭǌǉ!ƒ Ƨƒþ ÜĭƧƒþŰƒ ǇĂǉǄǀ!ƒ ƏþǄƕdž ÜƧǄƱƶ!ƒ þƒƌ5.39

ÜƧTǈ!ƒĂ ƗƵƓƱǁ! Ɣƙǂ!ƒ Ƨƒþ ÜƗŏƧƒþŰƒ ƗƱǁƪ!ƒ ƘƒƨƓŏƙǆƒĂ ýƓǆƵǅ ÜĂǁơ!ƒ ƔƩƒƧ þɳƓǆ.40
ǅ1977 ÜƗŏƧþǈǂƪŰƒ

ǅ1987 ÜƗŏƧþǈǂƪŰƒ ÜƗŏƶǆƓɳ!ƒ ƘƓƵĂƱǆ!ƒ Ƨƒþ ÜĭƧƒþŰƒ ǇĂǈƓǀ!ƒ ÜĂǁơ!ƒ ƔƩƒƧ þɳƓǆ.41

ǇĂþ Üĭ ƧƒþŰƒ ƧƒƧǀ!ƒ Ŏ5 ƒ ƓƬƙƤŮƒ ǅþƵ ƔŏƵ ƗŏƱƺ ÜĭƧĂɳ!ƒ ĭĂŭƵ ơ!ƓƬ ƧǋƓǆ.42
.ƧTǈ

.1982 ƗǈƧƓǀǆ Ɨƪƒƨþ ÜŎǈƓǈǁ!ƒ ĭƧƒþŰƒ ƇƓư ǀ!ƒ ÜýŏǁƤ ǇƪơǄ.43

ǅ1981 ÜƫŏƨƓƿƨ!ƒ ÜƔƓƙǂ!ƒ ǅ!ƓƵ ÜĭƧƒþŰƒ ƇƓư ǀ!ƒ ÜƩƒƧ ĂǅŎƶ5ƓT!ƒ þǆơǄ.44

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ǅ1997 ÜĭƧƒþŰƒ ǇĂǈƓǀ!ƒ Ŏ5 ƨŏɳĂ!ƒ ÜĬ5ƱƬǆ ƧþƓǀ!ƒ þƵ Ŏǁƶ Ă ǇƪơƧǂ þǆơǄ.46

.ƗŏƿĂǀơ!ƒ Ŏǁɳ!ƒ ƘƒƧĂTǈǆ ÜŎǈƓǈ!ƒ ƔƓƙǂ!ƒ ÜĭƧƒþŰƒ ƇƓư ǀ!ƒ ÜƔƓǋĂ!ƒ þƵ Ƙƶ5Ƨ þǆơǄ.47

.ǀƧǋƓǀ!ƒ ÜƗŏƧƶ!ƒ Ɨưǌǈ!ƒ Ƨƒþ ÜƗŏƧƒþŰƒ ƘƒƧƒƧǀ!ƒ ƦƓ5ǈ ÜĭƧƓǈƪ!ƒ ýǆƓƶ!ƒ þƵ þǆơǄ.48

.1987 ÜƱ ÜĭƧƒþŰƒ ǇĂǈƓǀ!ƒ ýĂƬ ÜǇƓǆƛƵ þǆơǄ.49

.ǅ1979 ÜǀƧǋƓǀ!ƒ ÜƗŏƧƶ!ƒ Ɨưǌǈ!ƒ Ƨƒþ ÜĭƧƒþŰƒ ƇƓư ǀ!ƒ ÜƲ5Ɠơ þĂǆơǄ.50

ǅ1985 ÜĬ!ĂŰƒ ƗƶƱ!ƒ ÜǀƧƒþŰƒĂ ǇĂǈƓǀ!ƒ Ŏ5 ƗǆƓƶ!ƒ Əþƛǆ!ƒ ÜŎǆǁơ þĂǆơǄ.51

ÜƘĂƧŏ ÜƗŏƿĂǀơ!ƒ Ŏǁơ!ƒ Ƨƒþ ÜĭƧƒþŰƒ ǇĂǈƓǀ!ƒ Ŏ5 ƘƓŏƧƲǈĂ Əþƛǆ ÜŎƪŏǀ!ƒ Ǉŏþ!ƒ Ŏơǆ.52
ǅ1999

ÜƗŏƶǆƓɳ!ƒ Ƨƒþ!ƒ ÜĭƧƒþŰƒ ǇĂǈƓǀ!ƒ ƗŏƙƒƦ ÜĭƧƒþŰƒ ǇĂǈƓǀ!ƒ ÜŎǆǌ5 þŏƨ Ăǅ Ĭ5ƱƬǆ.53
.ǅ1988 ÜƗŏƧþǈǂƪŰƒ

ÜƻƧƓƶǆ!ƒ ǀƬǈǆ Ü4Ʊ ÜƗ!Ăþ!ƒ Ʃǁɳǆ Ă ĭƧƒþŰƒ ƇƓư ǀ!ƒ ÜŎǆǌ5 þŏƨ Ăǅ Ĭ5ƱƬǆ.54
.ǅ1979 ÜƗŏƧþǈǂƪŰƒ

ÜǇƓǆƵ ÜƧTǈ!ƒĂ ƴŏƨĂǁ! Ɨ5ƓƛƧ!ƒ Ƨƒþ Ü1Ʊ ÜǇþƧŰƒ Ŏ5 ĭƧƒþŰƒ ƇƓùư ǀ!ƒ ÜǇƓƶǈǂ ƻƒĂǈ.55
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- [illegible] (86/29) [illegible] (10 [illegible] 9) [illegible] 1987 [illegible]

  [illegible] 1544.
- [illegible] ([illegible] 7/1050) [illegible] 1965/11/21.
- [illegible] (61/114) [illegible] 492.

- ƗʅǁηĂ Ü1958/5/3 ƗʅǁηĂ Ü1956/2/11 Ɨʅǁηŀ ƓnjķƒƧƒƧŀŀƒ (65/153 ǅƿƧ ƧƒƧŀ!ƒ
Ü651 ƒ ÜƗƬƓƗƵ ǈŏʅƓŏ ĭƥǆơ ƗƵĂǆηǆ Ü1958/1/18

- Ü19 Ɨǉʅ (12-10) ƥƒƥƵŰƒ ÜǈŏǆƓơǆ!ƒ ƗŀƓŀǉ Ɨǁηǆŀ ƧĂƬǉǆ!ƒ (71/58) ǅƿƧ /ƧƒƧŀ!ƒ
ÜǅƿƧ ƧƒƧŀ!ƒ ƧƱǉƒĂ.1181 ƒ

- ƏƥƓŀǆ!ƒ ƳĂǆηǆ Ŏ5 ƧĂƬǉǆ Ü1974/6/30 Ŏ5 ƧƥƓƮ!ƒ ƗŏƧƮǆ!ƒ Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ
Ü1980-1965 ÜǆƓƵ ƧƬƵ ƗʅǆƤ Ŏ5 Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ ƓnjķƧƧƿ Ŏķ!ƒ ƗŏǉĂǉƓŀ!ƒ
.3778 ƒ

- ŎƑƓư ŀ!ƒ ƥnjƶǆ!ƒ ÜƗŏƑƓư ŀ!ƒ Ɨǁηǆ!ƒ Ŏ5 ƧĂƬǉǆ Ü2000/12/13 Ŏ52000/351 ƧƒƧŀ!ƒ
.14 ƒ ÜƗŀʅķƗǆ!ƒ ƽĂŀơ!ƒ ÜŎηŏƧǆ!ƒ ǋŏ!ǫ ƧƓƬǅ .200 Ü12 ƥƥƶ!ƒ Ü4 Ɨǉʅ!ƒ ÜŎǉƥƧŰƒ

- Ɨʅǁηŀ Ɠŏǁƶ ƗŏƑƓưƿ 48 Ɨǉʅ! 6751 ǅƿƧ ǈƶƱ!ƒ Ŏ5 Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ ǅƗơ
Σ 4/11/1993 Ɨʅǁη - ƽ 59 Ɨǉʅ! 1712 ǅƿƧ ǈƶƱ!ƒ :Ɠưŏǅ ƧƱǉƒĂ .2010/1/16
.ƽ 7 Ɨǉʅ! 1050 ǅƿƧ ǈƶƱ!ƒ Ŏ5 Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ ǅƗơĂÜ139 ƒ 3 Ƴ 44
.17 ƒ Ü(3) ǅƿƧ ǈƥƵƓƿ (11)Σ ƗƵĂǆηǆ!ƒ Üǅ1965/2/21 ƣŏƧƓķŀ

- ÜǋŏǁƵ ƔηƒĂ ǋǉǅ ǇǉƓƱ ǇƑŏƬ ăƥǅ ǈǆ" :ǋǉǅ Ĭǁƶ Ŏǉƥ ƧŰƒ Ŏǉƥǆ!ƒ ǈĂǉƓŀ!ƒ ǈǆ (296) ǈƥƓǆ!ƒ ƒ ǉķ
ǈƗŏ ǅ! ǈǫ ǋķǆŏƿ Ăǅ ǋǁĂǆĂ ǇǆƑƓƿ ǈƓƗ ǈǅ ǋưŀƿ ǈǆǆ ǉƥƒƥƧķʅƒ ǋǁ5 ǋŀĂηĂ ǅƥƵ ǈŏŀķ ǅĂ
."ǇǆƑƓƿ

- ÜƧƓƬķʅǆ!ƒ ƻ!ƌǆ Ŏ5 ǋŏ!ǫ ƧƓƬǆ Ü1983/ĂŏǉĂŏ/25 Ŏ5 ƧƥƓƮ!ƒ Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ ǅƗơ
.386 ƒ ÜƔƓŀ!ƒ Ơķ5 ĬƽƱƮǆ ǉĂŏǁƵ

- ǅƓƗơǅ ƗƵĂǆηǆ Ŏ5 ƧĂƬǉǆ Ü1957/3/16 ƧƥƓƮ!ƒ ƗŏƧƮǆ!ƒ Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ ǅƗơ
.695 ƒ ÜƗŏǉƓĂ!ƒ Ɨǉʅ!ƒ Ɠŏǁƶ!ƒ ƗŏƧƒƥŰƒ ƗǆƗơǆ!ƒ

• ǁƗơ ƗǀƦƞǁƗƾ ƗƽƨƟǁƗƾ ƗǀƸƗ ƗƽƤƟƴ ƨƿƤƾ 1960/9/21 ƕƽ ƢǀƗƦƞǁ ƗƽƗƠǁƗƢƗ
.32 ƒ ǅ1997 ǅƗƣƮǁƗƾ ƗƽƨƟǁƗƾ ƗǀƸƗ ƗƽƤƟƴ ƗƽǁƗƠǁƗ

• ǁƗơ ƗǀƦƞǁƗƾ ƗǀƸƗ ƗƽƤƟƴ ƕƽ ǊƶƧƾ ǁƣƞ 1030 ǅ1967/4/20 ǅƨƣ! 12 ǅƹ
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ǁƞƲ 766/3186 ǁƣƞ ǖƗǆ5.142 ƒ ǅǐƤƞƴ ƗƸƸƾ Ʀƞƻ ǅǊƶƧƾ ǁƗǀƸƗ ƗƤƟƳ.1242
.934 ƒ ǅ35Ш ǅƗƣƬƝǁƗƾ ƗƽƤƟƴ ƗǀƟƗƴ ǅ1988/4119

- ǁƗơ ƗǀƦƞǁƗƾ ƗǀƸƗ ƗƽƕƗƾ ƕƽ ǊƶƧƾ ǁƣƞ 8661 ƗƣƗ! 47 ƗǂƸǃǀƞ ǀƸƗƦ ƗƣƗƞǁ
2005/1/29

• ǁƗơ ƗǀƦƞǁƗƾ ƗǀƸƗ ƗƽƕƗƾ ƕƽ ǊƶƧƾ ǁƣƞ 11474 ƗƣƗ! 48 ƗǂƸǃǀƞ ǀƸƗƦ ƗƣƗƞǁ
.2008/1/27

- ǁƗơ ƗǀƦƞǁƗƾ ƗǀƸƗ ƗƽƕƗƾ ƕƽ ǊƶƧƾ ǁƣƞ 2484!ƗƣƗ 34 ƗǂƸǃǀƞ ǀƸƗƦ ƗƣƗƞǁ 1992/2/29

• ǁƗơ ƗǀƦƞǁ ƗƽƗƠǁƗ ǅƕƣƗƤƾ ǁƣƞ 1108 ǅƟƤƤƞ 5 ƤƤǀƤƞ 1979.

• ǁƗơ ƗǀƦƞǁ ƗƽƠƞǁ ƕƽ ƗǀƦƞǁƗƾ ǖƗƦƞǁ ǁƣƞ 1982/138 ǅƢǀƗƦƞǁ ƕƽ 1982/7/17 ǅǁƗƞǁ
ƗǂƶƹƗ ǅƶƧƾǁƗƾ ƒ 1360 ǅƗƣǁƗƗ ǁƣƞ 1985/41 ǅƢǀƗƦƞǁ ƕƽ 1985/2/14 ǅǁƗƞǁ
.40 ƒ ǅƶƧƾǁƗƾ ƗǂƶƹƗ

• ǁƗơ ƗǀƦƞǁƗ ǀƸƗƞƗ ǐƤƞƴ ƗƽƤƟƴ ƕƽ ǊƶƧƾ ǁƣƞ (491) ƗƣƗ! 2 ǅƹ ƢǀƗƦƞǁ ƤƤǀƤƞ
.603 ƒ ǅƗƣƞƗƤƗƾ ƗƽƗƠƾ ǁƟƠƦ ƗǀƦƞǁƗ ǅǁ1949/5/19

• ǁƗơ ƗǀƦƞǁƗ ǀƸƗƞƗ ǐƤƞƴ ǅƗƽƤƟƴ ǁƣƞ 120 ǅƤƤǀƤƞ 1948/3/10 ƤƠƗ :ƗƽƗƾ ǅƗƠƗƦ
ƗƸƸƾ ǐƤƞƴ ǅ ƤƞƤ ǁƗơ ƗǀƦƞǁƗƾ ƗǀƸƗ ƗƽƕƗƾ ƕƽ ǊƶƧƾ ǁƣƞ 6748 ƗƣƗ! 42 ƹ
.1099 ƒ (120) ǁƣƞ ƤƞƦƤ (46)Σ ƗǀƦƞǁƗƾ ǅǁ2001/3/11 ƤƤǀƤƞ

- ƧďƵ ƗƵǍďɳď Üѕ 7 Ɨǉʅ! (2) ĎǉƧ ƗǒƯ!ƒ ÜĎ1947/3/8 Ŏ5 ǐƧƒþŰƒ ĈĜƯ!ƒ Ɨďǂơď Ďǂơ

.196 ƒ ÜǏ!ĂŰƒ

- ƗƵǍďɳď ÜĎ1951/4/26 Ŏ5 ƧþĜƬ!ƒ (165)ĎǉƧ ǇƶƱ!ƒ Ŏ5 ǐƧƒþŰƒ ĈĜƯ!ƒ Ɨďǂơď Ďǂơ

Ď1961-1946ǊǈʅƧ ƧƬƵ Ɨʅďƥ Ŏ5 ƗǒƒƧþ!ƒ ĈĜƯ!ƒ Ɨďǂơď ĜnjƙƧƧƥ Ŏƙ!ƒ ƗǒǉĂǉĜ!ƒ ƏþĜďƒ

.963 ƒ 1Ш

- ƗƵǍďɳď Ď1951/11/15 Ŏ5 ƧþĜƬ!ƒ (237)ĎǉƧ ǇƶƱ!ƒ Ŏ5 ǐƧƒþŰƒ ĈĜƯ!ƒ Ɨďǂơď Ďǂơ

-1946 Ɨǉʅ ƧƬƵ Σďƥ Ŏ5 ǐƧƒþŰƒ ƖĜƯ!ƒ Ɨďǂơď ĜnjƙƧƧƥ Ŏƙ!ƒ ƗǒǉĂǉĜ!ƒ ƏþĜďƒ

.963 ƒ Ü1Ш Ď1961

- .1948/3/10 Ɨʅƞ (904) Ďþďƒ ÜǐƧƒþŰƒ ĈĜƯ!ƒ Ɨďǂơď Ďǂơ

- ƧƒƧ!ƒ ÜƗƬĜǂƵ Ü1950/1/17 ơǒƧĜƙ Ü1817 ĎǉƧ ƧƒƧƥ ÜǐƧƒþŰƒ ĈĜƯ!ƒ Ɨďǂơď Ďǂơ

.652 ƒ ÜǐƧƒþŰƒ

- .226 ƒ ÜƖƧƬĜƶ!ƒ Ɨǉʅ!ƒ ƗƵǍďɳď Ü1956/2/22 Üѕ8 Ɨǉʅ! 5488 ĎǉƧ ǇƶƱ!ƒ Ŏ5 Ĝnjďǂơ

- ÜĎ2003/5/8 ơǒƧĜƙ Üѕ 46 Ɨǉʅ! 11225 ĎǉƧ ǇƶƱ!ƒ Ŏ5 Ĝǒƶ!ƒ ƗǒƧƒþŰƒ Ɨďǂơď!ƒ Ďǂơ

.16 ƒ Ü(2) ĎǉƧ ƖþƵĜƥ (3) Ĉƨɳ (48) Σ ƗƵǍďɳď!ƒ

- Ď1965/5/30 ơǒƧĜƙ ѕ7 Ɨǉʅ! 1687 ĎǉƧ ǇƶƱ!ƒ Ŏ5 Ĝǒƶ!ƒ ƗǒƧƒþŰƒ Ɨďǂơď!ƒ Ďǂơ

Ɨǉʅ! 1050 ĎǉƧ ǇƶƱ!ƒ Ŏ5 ĜnjďǂơǍ Ü1521 ƒ (139) ĎǉƧ ƖþƵĜƥ (10) Ǉď ƗƵǍďɳď!ƒ

ƘƧƒƧ!ƒ ƧƱǉĎǍ .17 ƒ ÜƗƵǍďɳď!ƒ (3) ĎǉƧ ƖþƵĜƥ (11) ÜĎ1965/11/28 ơǒƧĜƙ Üѕ7

:Ɨǒ!Ĝƙ!ƒ

- ÜLJ1992/2/9 ƣǰƧǴǩǶ Üʂ 36 ƚǉƪ! 2550 ǅǶƧ ǇƶƱ!ƒ Ǒ5 ǴǒǋƸ!ƒ ƚǒƧƒƥǗƒ ƚǆƚƣǆ!ƒ ǅƚƣ
ǴǒǋƸ!ƒ ƚǒƧƒƥǗƒ ƚǆƚƣǆ!ƒ ǅƚƣ ǴƱǒǄ ƴƞƒƧǍ Ý764 ƒ (76) ǅǶƧ ǊƥƵǴǶ (37) Ʃ ƚƵǍǆƞǆ!ƒ
ǴǌƧƧǶ Ǒǩ!ƒ ƏƥǴǆ!ƒ ƚƵǍǆƞǆ Üǅ2007/1/6 ƣǰƧǴǩ ʂ 50 ƚǉƪ! 1180 ǅǶƧ ǇƶƱ!ƒ Ǒ5
ƴǒƧǶ Ǐ!ǫ 2006 ƧǶǍǩƚǅ ƴǍǅ Ǉǆ ƴǍǕƒ ǴƨƞǍ!ƒ - Ǐ!ǍǕƒ ǊƧƒƥ!ƒ -ǴǒǋƸ!ƒ ƚǒƧƒƥǗƒ ƚǆƚƣǆ!ƒ
.93 ƒ (3) ǅǶƧ ǊƥƵǴǃ!ƒ 2007
- ƣǰƧǴǩǶ Ǐ ǴǒǋƵ .ʂ 49 ƚǉƪ! 3256 ǅǶƧ ǇƶƱ!ƒ Ǒ5 ǴǒǋƸ!ƒ ƚǒƧƒƥǗƒ ƚǆƚƣǆ!ƒ ǅƚƣ
.ǴǒǋƵ ƚƪƥǴƪ!ƒ ǊƧƒƥ!ƒ -ǅ2005/2/2
- Üǅ2001/3/11 ƣǰƧǴǩǶ ʂ 42 ƚǉƪ! 6748 ǅǶƧ ǇƶƱ!ƒ Ǒ5 ǴǒǋƸ!ƒ ƚǒƧƒƥǗƒ ƚǆƚƣǆ!ƒ ǅƚƣ
.1099 ƒ (120) ǅǶƧ ǊƥƵǴǶ (46) Ǉǆ ƚƵǍǆƞǆ!ƒ
- ǅ1984/6/23 ƣǰƧǴǩǶ Üʂ 22 ƚǉƪ! 790 ǅǶƧ ǇƶƱ!ƒ Ǒ5 ǴǒǋƸ!ƒ ƚǒƧƒƥǗƒ ƚǆƚƣǆ!ƒ ǅƚƣ
.1274 ƒ (203) ǅǶƧ ǊƥƵǴǶ (29)Ʃ ƚƵǍǆƞǆ!ƒ
- ƚǒƥǴƣ!ƒ ƚǉƪ!ƒ ÜǊǴǆǴƣǆ!ƒ ƚǋƞǆ Üǅ1955 ƧǒƒƧǶ5 22 Ǒ5 ǐƧƒƥǗƒ ǤǴƯǃ!ƒ ƚǆƚƣǆ ǅƚƣ
ÜLJǍƶǶƧǕƒǍ
- ƚ!Ǎƥ!ƒ ƩǋƞǆƚƵǍǆƞǆ -1952 ƧǶǆ5Ǎǉ 27 ƚƪǋƞǏ ʂ5 ƚǉƪ! 1243 ǅǶƧ ƚǒƯǃ!ƒ Ǒ5 ǴǌǆƚƣƧ
ƧǍƚƥǆ ƴǶǴƱǆ Ǐ ƴǍǕƒ Ƴ Ǐ ƴǍǕƒ ƥǋƞǆ!ƒ -ƚƶǶǴƪ!ƒ ƚǉƪ!ƒ Ǐ ǐƧƒƥǗƒ ǤǴƯǃ!ƒ ǅǴƚƣǕ
.64 ƒ ÜǊƧǋǴǃ!ƒ
- Ü270/1/86 ǅǶƧ ƻǋǆ Ü1972 ƧǒƒƧǶ5 23 ƚƪǋƞ 1972 Ʃ ƧǴǆ 5 ƣǰƧǴǩǶ 195 ǅǶƧ ǎǍǩ5
.205 ƒ ÜLJ1972 ƧǶǆƪǒƥ ƧƤǠ Ǐ!ǫ ǅ1971 ƧǶǍǩƚǅ ƴǍǅ Ǉǆ ƏƥǴǆ!ƒ ƚƵǍǆƞǆ

• ƗƮǚƞ ÜƊ1971/11/23 ƭǒƧƓƘ Ü1015 ƊƿƧ ƴōƧƬƙ!ƒĂ ăĂƙƽ!ƒ ǑƋƮ!! ƗǒƋĂƋƨ!ƒ ƗǒƨƋƞ!ƒ ăĂƙ5

ǇĂǉƓ!ƒ Ǒ5 ǑƨƞƧ!ƒ ƧƛŪƒ ÜǑƮǒƧƘǉƮ!ƒ :Ɲǒ!ƒ ƧƓƬƊ .ƓǌǒƓ ƖƧƓƬŰƒ ƪƓƮ!ƒĂ ÜƊ1971/10/27

.229 ƒ ÜĭƧƒƥŰƒ

• 12 ƗƮǚƞ Ɗ1972 ƧǒƓǉǒ 31 ƭǒƧƓƘ 90 ƊƿƧ ƴōƧƬƙ!ƒĂ ăĂƙƽ!ƒ ǑƋƮ!! ƗǒƋĂƋƨ!ƒ ƗǒƨƋƞ!ƒ ăĂƙ5

1971 ƧƙĂƙƗƊ ýĂƊ ǇƋ ǇĂƧƬƨ!ƒĂ ƗƮƥƓƮ!ƒ Ɨǉƪ!ƒ Ü275/3/86 ƊƿƧ ƻƘƋ ÜƊ1972 ƧǒƓǉǒ

.146 ƒ ÜƪƓƮ!ƒ ƴƞƧƋ!ƒ Ü1972 ƧƙƋƮǒƥ ƧƤƇ Ĭ!ƓƎ

• ƗƮǚƞƘ 1986/4/7 Ǒ5 357 ƊƿƧ ÜƴōƧƬƙ!ƒĂ ăĂƙƽ!ƒ ǑƋƮ!! ƗǒƋĂƋƨ!ƒ ƗǒƨƋƞ!ƒ ăĂƙ5

.326/6/86 ƊƿƧ ƻƘƋ Ü1986/3/11

• Ü2007 Ɨǉƪ! Ü2 ƥƥƨ!ƒ ÜǇǑǒǉƥƧŪƒ ǇǒƋƓơƋ!ƒ ƗƙƓǉ ƗǚƞƋ Ü2006 Ɨǉƪ! Ü207 ƊƿƧ ÜƓǒƘƵ ýƥƵ

.1962 ƒ

• .2008/3/6 ƭǒƧƓƘ Ü2007/363 ăĂƵƥ!ƒ ƊƿƧ ÜƓǒƘƵ ýƥƵ

• .2008/3/6 ƭǒƧƓƘ Ü8 ƧƒƧ!!ƒ ƊƿƧ Ü2007/363 ăĂƵƥ!ƒ ƊƿƧ ÜƓǒƘƵ ýƥƵ

• Ɨǉƪ! Ü(2) ƥƥƨ!ƒ ÜǇǑǒǉƥƧŪƒ ǇǒƋƓơƋ!ƒ ƗƙƓǉ ƗǚƞƋ Ü1985 Ɨǉƪ! Ü160 ƊƿƧ ÜƗǒǉƥƧƊ ƓǒƘƵ ýƥƵ

ƓǒƘƵ ýƥƵ Ü2012/486 :ƊƿƧ ƧƒƧƥ ƓǒƘƵ ýƥƵ :ƗǒƓƘ!ƒ ƘƒƧƒƧ!!ƒ ƧǙǉƒĂ .508 ƒ Ü1986

.2012/254:ƊƿƧ ƧƒƧƥ

• .84 ƒ ÜƊ1993/9/29 ƭǒƧƓƘ ƧƥƓƮ!ƒ ǇǒƋƓơƋ!ƒ ƗƙƓǉ ƗǚƞƋ Ü(1993/174) ƊƿƧ ƓǒƘƵ ýƥƵ

• ÜǇǒƋƓơƋ!ƒ ƗƙƓǉ ƗǚƞƋ ÜƊ1995/6/20 ƭǒƧƓƘ ƧƥƓƮ!ƒ (1995/76) ƊƿƧ ƓǒƘƵ ýƥƵ

ƘƒƧĂƬǉƋ ÜƊ1986/7/14 ƭǒƧƓƘ ƧƥƓƮ!ƒ Ü(1985/160) ƊƿƧ ƓǌƋƗơĂ .4241 ƒ

ƗƙƓǉ ƗǚƞƋ ÜƊ1981/3/17 ƭǒƧƓƘ ƧƥƓƮ!ƒ Ü(1981/55) ƊƿƧ ƓǌƋƗơĂ .Ɨ!ƒƥƵ ƨƗƧƋ

.186 ƒ ÜǇǒƋƓơƋ!ƒ

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ƒ 40. 1985/4/28ÜĎž

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LJŏďžĠơďž!ƒ ýþƵ ĠöǁƵ ĎŀþƧ 19840/169 (ǂƒöǋǰ ǂŏʅĠďžƤ)Ü ƧĂƬǰďž!ƒ ĬǁƵ ǂơƼƮ!ƒ 1424 LJďž
þþƵ ǂǁɳďž ǂħĠĺĺǰ LJŏďžĠơďž!ƒ ơĵŏƧĠķħ 1985/1/1.

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ƒ 682. ÜΣďžĠƤ!ƒ þþƶ!ƒ

- ýþƵ ĠöǁƵ ŐƼ ƒ!ƅƵĂă ĎŀþƧ (1999/599)Ü ƒ!ƮĠƧþ ơĵŏƧĠķħ 2000/6/25ÜĎž ďžǰƬĂƧƒƘ ďžƧǂƨ
ƵþƒǂÜ ĂƠǂďžǌĠ ĎŀþƧ (1999/517)Ü ƒ!ƮĠƧþ ơĵŏƧĠķħ 2000/4/17ÜĎž ďžǰƬĂƧƒƘ ďžƧǂƨ
ǂ!ƒþƵ.

- .ΣĜƱƪp ƴþĂdž Ü2008/294 ĎžpƧ ƧƒƧp ĜõĬƵ ýþƵ
- .ΣĜƱƪl!ƒ ƨǂƧdž ƘƒƧĂTǉdž Ü1973/10/30 ƣǒƧĜk Ü1973/76 ĎžpƧ ƧƒƧp ĜõĬƵ ýþƵ
- .Ƚ!ƒþƵ ƨǂƧdž ƘƒƧĂTǉdž Ü1973/10/30 ƣǒƧĜk Ü1973/76 ĎžpƧ ƧƒƧp ĜõĬƵ ýþƵ
- .2014/143 ĎžpƧ ƧƒƧpĂ Ü2008/88 ĎžpƧ ƧƒƧp ĜõĬƵ ýþƵ
- .Ƚ!ƒþƵ ƨǂƧdž ƘƒƧĂTǉdž 1998/29 ƣǒƧĜk 98/185 ĎžpƧ ƧƒƧp ÜĜõĬƵ ýþƵ
- Ü(3) þþƶ!ƒ Ü1982 Ƚǉƪ! ÜǇǒõǉþƧǕƒ ǇǒdžĜƠdž!ƒ ȽhĜlǉ ȽĬɳdž Ü1982 /138 ĎžpƧĜõĬƵ ýþƵ

  .1360 ƒ
- .386 ƒ ÜƫhĜƪ!ƒ ƴɳƧdž!ƒ Ǒ5 Ĝnjǒ!ǫ ƧĜTdž Ü1958/3/26 Ü1512 ĎžpƧ ăĂk5
- Ďþhdž Ü38 Ü37 ǇǒǩǉƪƷ!ƒ ƏþĜhdž ȽƵĂdžɳdž Ü1982/11/17 ȽƪĬɳ Ü932/2/22 ĎžpƧ ƻĬdž ăĂk5

  .77 ƒ Ü33 ĎžpƧ
- ÜȽǒdžƪƧ!ƒ ǉþǒƧɳ!ƒ Ďž1972/9/24 ƣǒƧĜkh ƧþĜƬ!ƒ ÜĎž1972 Ƚǉƪ! 18 ĎžpƧ ǇǒǉƒĂl!ƒ Ƨƪ5k ƧƒƧp

  ƧþĜƬ!ƒ Ďž1987 Ƚǉƪ! 18 ĎžpƧ ǇǒǉƒĂl!ƒ Ƨǒƪ5k ƧƒƧp Ü2092 ƒ Ü2389 ĎžpƧ þþƶ!ƒ

  .1506 ƒ Ü3492 ĎžpƧ þþƶ!ƒ ÜȽǒdžƪƧ!ƒ ǉþǒƧɳ!ƒ ÜĎž1987/5/5 ƣǒƧĜkh
- ƴþĂdž .Ďž2008/294 ĎžpƧ ƧƒƧl!ƒ ǁ!Ʀ Ǒ5 ƧƱǉƒĂ .Ďž2005 Ƚǉƪ! 2 ĎžpƧ ǇǒǉƒĂl!ƒ Ƨƪ5k ƧƒƧp

  .ΣĜƱƪp
- .ΣĜƱƪp ƨǂƧdž Ü2005/2 ĎžpƧ ǐƧǒƪ5k ƧƒƧp
- .Ďž2000/298 ĎžpƧ ƧƒƧp Ü2010/173 ĎžpƧ ƧƒƧp
- Ü(1) þþƶ!ƒ ÜǇǒõǉþƧǕƒ ǇǒdžĜƠdž!ƒ ȽhĜlǉ ȽĬɳdž Ü1969 Ƚǉƪ! Ü72 ĎžpƧ ÜȽǒǉþƧĎ Ĝõ!þƵ ýþƵ ƧƒƧp

  .67 ƒ Ü1970 Ƚǉƪ!

- Ƚǉǐ! Ü(2) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü2000 / 439 ǅƿƨ ǴǒǆƵ ýƀƵ ƨƒƨƿ
.225 ƒ Ü2002

- Ü2003 Ƚǉǐ! Ü(8) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü2003 / 30 ǅƿƨ ÜǴǒǆƵ ýƀƵ ƨƒƨƿ
.2493 ƒ

- Ü(2) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü1971 Ƚǉǐ! Ü163 ǅƿƨ ÜȽǒǉƀƨǅ ǴǒǆƵ ýƀƵ ƨƒƨƿ
.334 ƒ Ü1972 Ƚǉǐ!

- Ü(6) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü2000 ơǒƨǴ 202 ǅƿƨ ÜȽǒǉƀƨǅ ǴǒǆƵ ýƀƵ ƨƒƨƿ
Ü2001 Ƚǉǐ!

- Ü(7) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü1997 Ƚǉǐ! Ü472 ǅƿƨ ÜȽǒǉƀƨǅ ǴǒǆƵ ýƀƵ ƨƒƨƿ
Ü2011/84:ǅƿƨ ǴǒǆƵ ýƀƵ ƨƒƨƿ :Ƚǒ!Ǵ!ƒ ƘƒƨƒƨǇ!ƒ ǴươǅƨƱǉǅ Ă.70 ƒ Ü1999 Ƚǉǐ!
ǴǌǆǂĂ Ü2012/114ǅƿƨ ƨƒƨƿĂ Ü2012/146 :ǅƿƨ ƨƒƨƿĂ Ü2013/365 ǅƿƨ ƨƒƨƿĂ
ƨƒĂƞ ǅƀƵ ǏǆƵ ǴǒǆƶƩ!ƒ ýƀƶ!ƒ ȽǆǂơǆƀǴǌǆƞǅĂ ǇǇƽ!ƒ Ǒ5 ƨǇǐǐƒ ǇǇǅ) :Ǵǌǒ5 ǇǴƞ ǴǌǆǆƞǆƵ
(ǑƶƞƨƨǇǆ ȽǒƨƒƀǕƒ ƘƒƨƒƨǇ!ƒ ǇǴǒƨǐ

- Ƚǉǐ! Ü(1) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü2000 ơǒƨǴ 89 ǅƿƨ ÜȽǒǉƀƨǅ ǴǒǆƵ ýƀƵ
.64 ƒ Ü2001

- .2000 Ƚǉǐ! (2) ƀƀƶ!ƒ ÜǇǒǒǉƀƧǕƒ ǇǒǆǴơǆ!ƒ ȽǆǴǇǉ Ƚǆƞǆ Ü1999/121 ǅƿƨ ǴǒǆƵ ýƀƵ

- .ƩǴƱǐƿ ýƿĂǆ .2012/101 ǅƿƨ ǴǒǆƵ ýƀƵ ƨƒƨƿĂ Ü2006/516 ǅƿƨ ǴǒǆƵ ýƀƵ

- Ü1999/10/31 ơǒƨǴ (ȽǒǐǴǆƤ ȽƑǒǋ) 1999/223 ǅƿƨ ȽǒǉƀƧǕƒ ǴǒǆƶƩ!ƒ ýƀƶ!ƒ Ƚǆǂơǆ
.1999/1/1 ơǒƨǴ 10 ǅƿƨ ȽǒƑǴư!ƒ Ƚǆƞǆ!ƒ ƀƀƵ ǇǆƵ 305 ȽơƽƮ!ƒ ǏǆƵ ƨĂƬǉǆ!ƒ

- 2000/12/12 ơǒƨǴ (ȽǒǐǴǆƤ ȽƑǒǋ) 2000/256 ǅƿƨ ǴǒǆƵ ýƀƵ

- ĭ ƨƒƥǕƒ ƨƒƨǀ!ƒ ƗǒǴǌǉ Ü ƫ ǒǍƨƥ Ü1955/4/10 ǫǒƨǴǵ ƨƥǴƮ!ƒ ĭ ƨ Ʈǆ!ƒ ƇǴ ư ǀ!ƒ ƗǅǂơǅƨƒƨƤ

.324 ƒ ÜƇǴ ư ǀ!ƒ ƨǒƨƱ ƨǒƹ ǇƵ

- ƨǴƬǅ Ü1954/4/19 Ɨʅǀη ƨ6/680 ǅƥƨ ăǍƵƥ!ƒ Ǒƽ ƨƥǴƮ!ƒ ƗǒƨƮǅ!ƒ ƇǴ ư ǀ!ƒ ƗǅǂơǅƨƒƨƤ

.954 ƒ Ü ĭ ƨƒƥǕƒ ƨƒƨǀ!ƒ ÜƗƬǴǂƵ :ăƥ! Ǌǒ!ǫ

- Ü2000/1/27 ǫǒƨǴ (ƗǒƛǙƛ ƗǏǒǋ) 1963/1185 ǅƥƨ (ǑǉƥǅƗǒƨƮǅ!ƒ Ư ǀǉ!ƒ ƗǅǂơǅƨƒƨƤ

.2000/1/27 Ɨʅǀη Ǉ ƨ63 Ɨǉʅ! 1185 ǅƥƨ ǇƶƱ!ƒ Ɨ!ƒƥƵ ƨǂƨǅ ƘƒƨǍƬǉǅ